TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, [redacted] 1923

No. [redacted] 224

CHICAGO AND NORTHWESTERN RAILWAY COMPANY, APPELLANT,

vs.

W. H. OSBORNE, JR., AS STATE TAX COMMISSIONER OF THE STATE OF NEBRASKA, ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEBRASKA.

FILED FEBRUARY 20, 1923.

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1922.

No. 863.

CHICAGO AND NORTHWESTERN RAILWAY COMPANY, APPELLANT,

vs.

W. H. OSBORNE, JR., AS STATE TAX COMMISSIONER OF THE STATE OF NEBRASKA, ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEBRASKA.

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1 Be it remembered, that on the 24th day of November, 1922, a Petition was filed in the Clerk's office of said District Court, which said Petition is in words and figures following, to-wit:

492 Equity.

1922 Tax Suit.

IN THE

DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEBRASKA, OMAHA DIVISION.

CHICAGO AND NORTH WESTERN RAILWAY COMPANY, Plaintiff,

vs.

W. H. OSBORNE, JR., as State Tax Commissioner of the State of Nebraska; H. C. Haverly, as County Treasurer, Adams County, Nebraska; Guy E. Thornton, as County Treasurer, Antelope County, Nebraska; R. M. Hutchinson, as County Treasurer, Boone County, Nebraska; D. J. Tomek, as County Treasurer, Boyd County, Nebraska; Mamie McAndrews, as County Treasurer, Brown County, Nebraska; Philip A. Tomek, as County Treasurer, Butler County, Nebraska; W. E. Haley, as County Treasurer, Cherry County, Nebraska; Harry J. Platz, as County Treasurer, Clay County, Nebraska; George W. Smith, as County Treasurer, Colfax County, Nebraska; Henry Schwinck, as County Treasurer, Cuming County, Nebraska; Belle Quinn, as County Treasurer, Dawes County, Nebraska; Joseph Roberts, as County Treasurer, Dodge County, Nebraska; M. L. Endres, as County Treasurer, Douglas County, Nebraska; Lester S. Donisthorpe, as County Treasurer, Fillmore County, Nebraska; R. E. Gallagher, as County Treasurer, Holt County, Nebraska; Harry E. Toof, as County Treasurer, Hamilton County, Nebraska; Edward Matthews, as County Treasurer, Knox County, Nebraska; William Albers, as County Treasurer, Lancaster County, Nebraska; P. W. Ruth, as County Treasurer, Madison County, Nebraska; A. L. Brande, as County Treasurer, Pierce County, Nebraska, Belle Galley, as County Treasurer, Nuckolls County, Nebraska; A. J. Kriycki, as County Treasurer, Platte County, Nebraska; J. C. Wallace, as County Treasurer, Rock County, Nebraska; George F. Bartek, as County Treasurer, Saunders County, Nebraska; C. E. Morefield, as County Treasurer, Seward County, Nebraska; Bruce H. Hewitt, as County Treasurer, Sheridan County, Nebraska; Fred W. Meyer, as County Treasurer, Sioux County, Nebraska; E. B. Roper, as County Treasurer, Thayer County, Nebraska; R. G. Allen, as County Treasurer, Washington County, Nebraska; Frank L. Propst, as County Treasurer, York County, Nebraska, and the successors in office of each of said defendants, Defendants.

2 **Petition.**

[Filed Nov. 24, 1922.]

To the Honorable Judge of the District Court of the United States, in and for the District of Nebraska:

Comes now the plaintiff, and for cause of action alleges:

I.

That the plaintiff is a corporation — and existing under and by virtue of the laws of the State of Illinois, having its principal office and place of business at the City of Chicago, in Cook County, in said State of Illinois, and is a citizen and resident of said State of Illinois, and owns and operates lines of railroad in the State of Illinois, Iowa, Wisconsin, Michigan, South Dakota, Nebraska, and other states, and is engaged in interstate commerce.

II.

That the defendant, W. H. Osborne, Jr., is the duly appointed, qualified and acting Tax Commissioner of the State of Nebraska, and is a citizen and resident of said State of Nebraska; that H. C. Haverly is the duly elected, qualified and acting County Treasurer of Adams County, Nebraska, and is a citizen and resident of the State of Nebraska; that Guy E. Thornton is the duly elected, qualified and acting County Treasurer of Antelope County, Nebraska, and is a citizen and resident of the State of Nebraska; that R. H. Hutchinson is the duly elected, qualified and acting County Treasurer of Boone County, Nebraska, and is a citizen and resident of the State of Nebraska; that D. J. Tomek is the duly elected, qualified and acting County Treasurer of Boyd County, Nebraska, and is a citizen and resident of the State of Nebraska; that Mamie McAndrews is the duly elected, qualified and acting County Treasurer of Brown County, Nebraska, and is a citizen and resident of the State of Nebraska; that
3 Philip A. Tomek is the duly elected, qualified and acting County Treasurer of Butler County, Nebraska, and is a citizen and resident of the State of Nebraska; that W. E. Haley is the duly elected, qualified and acting County Treasurer of Cherry County, Nebraska, and is a citizen and resident of the State of Nebraska; that Harry J. Platz is the duly elected, qualified and acting County Treasurer of Clay County, Nebraska, and is a citizen and resident of the State of Nebraska; that George W. Smith is the duly elected, qualified and acting County Treasurer of Colfax County, Nebraska, and is a citizen and resident of the State of Nebraska; that Henry Schwinek is the duly elected, qualified and acting County Treasurer of Cuming County, Nebraska, and is a citizen and resident of the State of Nebraska; that Belle Quinn is the duly elected, qualified and acting County Treasurer of Dawes County, Nebraska, and is a citizen and resident of the State of Nebraska; that Joseph Roberts is the

duly elected, qualified and acting County Treasurer of Dodge County, Nebraska, and is a citizen and resident of the State of Nebraska; that M. L. Endres is the duly elected, qualified and acting County Treasurer of Douglas County, Nebraska, and is a citizen and resident of the State of Nebraska; that Lester S. Donisthorpe is the duly elected, qualified and acting County Treasurer of Fillmore County, Nebraska, and is a citizen and resident of the State of Nebraska; that R. E. Gallagher is the duly elected, qualified and acting County Treasurer of Holt County, Nebraska, and is a citizen and resident of the State of Nebraska; that Harry E. Toof is the duly elected, qualified and acting County Treasurer of Hamilton County, Nebraska, and is a citizen and resident of the State of Nebraska; that Edward Matthews is the duly elected, qualified and acting County Treasurer of Knox County, Nebraska, and is a citizen and resident of the State of Nebraska; that William Albers is the duly elected, qualified and acting County Treasurer of Lancaster County, Nebraska, and
4 is a citizen and resident of the State of Nebraska; that P. W. Ruth is the duly elected, qualified and acting County Treasurer of Madison County, Nebraska, and is a citizen and resident of the State of Nebraska; that A. L. Brande is the duly elected, qualified and acting County Treasurer of Pierce County, Nebraska, and is a citizen and resident of the State of Nebraska; that Belle Galley is the duly elected, qualified and acting County Treasurer of Nuckolls County, Nebraska, and is a citizen and resident of the State of Nebraska; that A. J. Krivcki is the duly elected, qualified and acting County Treasurer of Platte County, Nebraska, and is a citizen and resident of the State of Nebraska; that J. C. Wallace is the duly elected, qualified and acting County Treasurer of Rock County, Nebraska, and is a citizen and resident of the State of Nebraska; that George F. Bartek is the duly elected, qualified and acting County Treasurer of Saunders County, Nebraska, and is a citizen and resident of the State of Nebraska; that C. E. Morefield is the duly elected, qualified and acting County Treasurer of Seward County, Nebraska, and is a citizen and resident of the State of Nebraska; that Bruce H. Hewitt is the duly elected, qualified and acting County Treasurer of Sheridan County, Nebraska, and is a citizen and resident of the State of Nebraska; that Fred W. Meyer is the duly elected, qualified and acting County Treasurer of Sioux County, Nebraska, and is a citizen and resident of the State of Nebraska; that Robert Gratton is the duly elected, qualified and acting County Treasurer of Stanton County, Nebraska, and is a citizen and resident of the State of Nebraska; that E. B. Roper is the duly elected, qualified and acting County Treasurer of Thayer County, Nebraska, and is a citizen and resident of the State of Nebraska; that R. G. Allen is the duly elected, qualified and acting County Treasurer of Washington County, Nebraska, and is a citizen and resident of the State of Nebraska; that Frank L. Propst is the duly elected, qualified and acting County Treasurer of York County, Nebraska, and is a citizen and resident of the State of
5 Nebraska, and each and all of the defendants are agents of the State in the performance of the respective duties of their offices.

III.

That this is a suit of a civil nature in equity involving an amount, exclusive of interest and costs, exceeding the sum or value of Three Thousand and no/100 Dollars ($3,000.00), as to each defendant, and is a controversy wholly between the plaintiff, a citizen and resident of the State of Illinois, and the defendants, each and all of whom are citizens and residents of the State of Nebraska.

IV.

That the claims and causes of action involved in this suit arise under and involve the construction and application of the Fourteenth Amendment to the Constitution of the United States, providing that no person shall be deprived by any state of its property without just compensation nor denied the equal protection of the law, and plaintiff alleges that it claims protection of said Amendment to the Constitution of the United States against the unlawful acts of the defendants hereinafter set forth.

V.

Plaintiff further states to the Court that this is a suit in equity to enjoin the collection of illegal taxes against the plaintiff; that said taxes are illegal because the property of the plaintiff has been valued for taxing purposes at more than its true value, while the property of all other tax-payers in the state, and particularly real estate, has systematically and intentionally and continuously been valued at only a fraction of its true value, thereby resulting in a discrimination against the plaintiff and depriving the plaintiff of equal protection of the law in violation of the Constitution of the State of Nebraska and the laws of the State, and in violation of the Fourteenth
6 Amendment to the Constitution of the United States.

VI.

Plaintiff further alleges that it is provided by Section 1, Article 8, of the Constitution of Nebraska:

"The necessary revenue of the State and its governmental subdivisions shall be raised by taxation in such manner as the legislature may direct; but taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises, and taxes uniform as to class may be levied by valuation upon all other property. Taxes, other than property taxes, may be authorized by law. Existing revenue laws shall continue in effect until changed by the legislature."

It is further provided by Section 4, Article 8, of the Constitution of Nebraska:

"The legislature shall have no power to relieve or discharge any county, city, township, town or district whatever, or the inhabitants

thereof, or any corporation, or the property therein, from their or its proportionate share of taxes to be levied for state purposes, or due any municipal corporation, nor shall commutation for such taxes be authorized in any form whatever."

It is provided by Section 28 of Article 4 of the Constitution of Nebraska:

"A Tax Commissioner shall be appointed by the Governor with the advice and consent of the Senate. He shall have jurisdiction over the administration of the revenue laws of the State, and together with the Governor, Secretary of State, State Auditor and State Treasurer, shall have power to review and equalize assessment of property for taxation within the State. He shall have such other powers and perform such other duties as the legislature may provide. His term of office and compensation shall be as provided by law."

7 It is provided by Section 5820, Compiled Statutes of Nebraska, 1922:

"Actual valuation. All property in this state, not expressly exempt therefrom, shall be subject to taxation, and shall be valued and assessed at its actual value. 'Actual value,' as used in this act, shall mean its value in the market in the ordinary course of trade."

Section 5822, same Statute, provides:

"Real property taxes—first lien. Taxes on all real property shall be a first lien thereon from and including the first day of December of the year in which they are levied until the same are paid, except general city taxes on real property within the corporate limits of cities of the metropolitan class, which shall be a first lien thereon from and including the first day of May following the levy, until the same are paid."

Section 5823, same Statute, provides:

"Personal property taxes—first lien. Taxes assessed upon personal property shall be a first lien upon the personal property of the person to whom assessed from and after the first day of November of the year in which they are assessed, until paid."

Section 5825, same Statute, provides:

"Taxes—first lien. All general taxes due the state and its governmental subdivisions shall be a first lien on the real estate on which levied, and takes priority over all other encumbrances and liens thereon."

Sections 5827 to 5832 prescribe the duties of the Tax Commissioner and require him, in cases of illegal or unfair assessment by county assessors or counties, to cause the property to be re-assessed—

"To the end that all property in such district or county shall be assessed equitably as compared with like property in such district, county or state."

8 Section 5839, same Statute, provides:

"Railroad assessment. The state board of equalization and assessment is hereby empowered, and it is made its duty, to assess all property of the railroads and railroad corporations in the State of Nebraska; Provided, however, that all machine repair shops, general office buildings, store houses, and also all real and personal property outside of right-of-way and depot grounds, as of and belonging to any such railroad and telegraph companies, shall be listed for purposes of taxation by the principal officers or agents of such companies with the assessors of any precinct of the county where such real or personal property may be situated, in the manner provided by law for the listing and valuation of real and personal property."

Section 5840, same Statute, provides:

"Railroad assessment—time of. The board on the first Monday of May of each year shall proceed to ascertain all property of any railroad company owning, operating or controlling any railroad or railroad service in this state, which for the purpose of assessment and taxation, shall be held to include the main track, spur tracks, warehouse tracks, roadbed, and super-structures thereon, and all machinery, rolling-stock, telegraph lines and instruments connected therewith, all material on hand and supplied, provided for operating and carrying on the business of such road, in whole or in part, together with franchises and all other property of such railroad company used or held for the purpose of operating its road, and appraise and assess the same as personal property as herein provided."

Sections 5841 to 5846, same Statute, prescribe the kind of reports to be made to the State Board of Equalization by Railway Companies, and plaintiff alleges that it made such report in accordance with law.

9 Section 5847, same Statute, provides:

"Board returns to county clerk—trackage. The state board of equalization and assessment, after having valued and assessed all the railroad property in this state in accordance with the provisions of this article, shall immediately make return to the county clerk of each and every county in which any portion of the railroad property as designated in this article may be located, to be used as the basis of levy for the county and governmental subdivisions through which any railroad or part thereof may extend."

Sections 5859 to 5874 provide the method of equalization by the various county boards of equalization and as to the work of said county boards of equalization it is provided by Sections 5875 and

5876 that the State Board of Equalization shall review the work of the county boards of equalization, and as to railroad companies and the values of their property fixed by the county boards of equalization so far as the same lies within cities and villages:

"The board shall equalize and so fix the values of the various properties returned that the companies assessed shall stand, as near as may be, upon a basis of equality with other taxpayers in the same cities and villages respectively."

Section 5880, same Statute, provides:

"Proceedings regular and valid. The proceedings of the assessors and of the board, and the action of each of them in determining the assessable value of the property of the companies under the provisions of this article, shall be presumed to be regular and valid, and the determination of the assessors and of the board shall not be impaired, vitiated or set aside upon any grounds not affecting the substantial justice of the tax. The provisions of this article prescribing a date or period at or within which any act shall be performed or determination shall be made by the board, as well as all other acts, looking to the orderly conduct of the business of any of the officers herein provided for, shall be deemed directory only. No tax assessed or levied under the provisions of this article shall be held to be invalid, in whole or in part, on account of being assessed in the wrong name, or on account of the manner of listing, assessing, apportioning or valuing any property of any company, or on account of the method or manner of ascertaining and determining the assessable value of the property of any company by any assessor or the board, unless such company shall show that gross injustice has resulted therefrom."

Section 5881, same Statute, provides:

"Suit to set aside assessment—method of procedure. In any action, suit, or proceeding brought by such company, or by any creditor, stockholder or bondholder thereof, to set aside, restrain or postpone the payment or collection of any tax levied upon the property of any company under the provisions of this article, no injunction, order or writ to enjoin or restrain the payment or collection of the tax shall issue or be continued in force, unless such company shall pay to the city or village whose taxes are affected thereby, the amount of taxes which the court shall determine primarily to be justly and equitably due from such company. Such primary determination shall be made by the court in which the action, suit or proceeding is pending, upon motion summarily and without delay. In case the amount of tax justly and equitably due from the company shall be finally determined to be less than the amount so paid, the excess shall be refunded to such company by direction of the court."

VII.

Plaintiff further alleges that in accordance with said Statutes of Nebraska plaintiff made report to the State Board of Equalization and to the county assessors of the various counties strictly in accordance with law; that thereupon during the month of April, 1922, the State Board of Equalization and Assessment fixed the valuation of plaintiff's property in Nebraska for taxing purposes; said order being in words and figures following, to-wit:

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"Resolved, that we, the State Board of Equalization and Assessment, in regular session held for the purpose of valuing and assessing the railroads in the State of Nebraska for the purpose of taxation of their property in the said state, and having given due and full consideration to the returns furnished said Board by the several railroad companies, and having taken into consideration the main track, side track, spur track, warehouse tracks, roadbed, right of way and depot grounds, and all machinery, rolling stock, telegraph lines and instruments connected therewith, all material on hand and supplies, moneys, credits, franchises and all other property of said railroad companies, and having taken into consideration the gross and net earnings of said railroads, the total amount expended in operation and maintenance, the dividends paid, the capital stock of each system or road and the market value thereof, and the total amount of secured and unsecured indebtedness and from all the information which we are able to obtain, do hereby ascertain, appraise, fix and assess for the purposes of general taxation the full actual value of the property of each of the several systems or companies in the State of Nebraska, as hereinafter recited.

Chicago and North Western Railway Company, $38,714,373.00.

That said State Board of Equalization and Assessment fixed the valuation per mile of plaintiff's line of railroad in Nebraska on the basis of 1,062.56 miles at $36,475.00; that thereafter the plaintiff, pursuant to said Statutes of Nebraska, appeared before the State Board of Equalization at its meeting on the third Monday in July, 1922, complaining that said valuation fixed by the State Board of Equalization was excessive and asking to have same reduced to the true value of said property of the plaintiff and that the valuation

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to be certified by said Board of Equalization to the various county clerks be made to conform to the percentage of actual value which is enjoyed by real estate throughout the State of Nebraska for taxing purposes and which plaintiff alleges is on the average only about 60 per cent of true value, but plaintiff alleges that the State Board of Equalization denied to plaintiff relief in the premises and certified to the various county clerks, the valuation of plaintiff's property as fixed by the said State Board of Equalization and the valuation per mile of plaintiff's property as so fixed, and the said county clerks and county treasurers, defendants herein, are applying

said valuation per mile to the levies provided by law for raising revenue, and said county treasurers will force plaintiff to pay taxes on said grossly excessive and unlawful valuation unless restrained by order of this court.

VIII.

Plaintiff further alleges that the value of plaintiff's property in the State of Nebraska does not exceed $30,000,000.00 and that the value per mile of plaintiff's property does not exceed $30,000.00 per mile, and that the valuation of $38,714,373.00 for plaintiff's property, as fixed by said State Board of Equalization, is excessive by at least $8,714,373.00; that the valuation per mile of $36,475.00, as fixed by said State Board of Equalization, is excessive by at least $6,475.00 per mile.

IX.

Plaintiff further alleges that the State Board of Equalization and the several county assessors of the State of Nebraska have for more than two years assessed and valued farm land in the State of Nebraska at much less than the true value thereof; that during the year 1920 farm lands in the State of Nebraska, which constitute more than 90 per cent of the value of all property in the state, except railroads, was fixed for taxing purposes by the State Board of
13 Equalization and by the county assessors at only 68 per cent of the true value of such farm land; but plaintiff alleges that for the year 1921 the valuation of farm lands in the State of Nebraska, as returned by the county assessors of the several counties, and as adjusted and equalized by the State Board of Equalization, was fixed at only about 47 per cent of the true value of said farm land; and for the year 1922 at only about 60 per cent of the true value of said farm lands; and in that behalf plaintiff alleges that the fixing of the valuation of farm lands for taxing purposes at only about 60 per cent of the true value thereof by the State Board of Equalization was the result of a systematic, intentional, notorious and continuous under-valuation of said farm lands by the several county assessors and the State Board of Equalization for taxing purposes; that said intentional and systematic under-valuation of farm lands was done for the purpose of relieving the said farm lands of their just share of the taxing burden in the state; and in that behalf plaintiff alleges that the said defendant, Osborne, as Secretary of the State Board of Equalization for the year 1920, published a statement showing the result of the valuation by the county assessors as equalized by the State Board of Equalization with respect to farm lands as follows:

"The abstracts of assessment have been received covering lands and improvements for all the counties except Arthur. The returns show that the precinct assessors and other local assessing officials throughout the state have placed a value on lands and improvements which average over 68 per cent of the average value as established by the ratio process based on actual sales. It would seem only fair

and just that the State Board would accept this average valuation established by almost 2,000 precinct assessors and in equalizing the land and improvements between counties, maintain, as nearly
14 as possible, for each county, an assessed actual valuation of 68 per cent of the actual value as established by the ratio process."

And plaintiff alleges and charges that for the year 1920 the valuation of farm lands for taxing purposes in Nebraska was equalized and fixed by the State Board of Equalization at only 68 per cent of the true value thereof in violation of the Constitution and Laws of the State of Nebraska, as above set forth.

Plaintiff further alleges and charges that the adoption of said valuation of 68 per cent for the year 1920, on real estate was intentional and deliberate and pursuant to concerted action by the State Board of Equalization and the several county assessors and in that behalf alleges and charges that the said State Board of Equalization made and published a statement of the result of its action as a Board of Equalization for the year 1920 as follows, to wit:

"In the matter of equalization between counties, the State Board has adhered to the early announced plan of accepting for valuation purposes the average value placed on lands and improvements by the precinct and county assessing officials. For equalization between counties, the value returned by the assessing officials of each county has been compared with the average real value, as established by the ratio process, based on bona fide sales from July 1, 1918, to July 1, 1919. The equalization of the counties on the basis of the sale average was requested by the Board at the meeting of the assessing officials of the counties held July 20, 1920. The ratio process,
15 used in correcting the sale averages, is the plan used by Wisconsin for a number of years, and Minnesota and other states have adopted the same plan.

"Under this plan of equalization, the State Board has the combined judgment as to value, of the assessing officials of the counties and of the buyers and sellers of real estate for a year's period. The year taken was previous to the land boom and does not cover the period of the highest prices.

"The valuations as returned by the County Boards averaged 68 per cent of the real value, as determined by the ratio process, and the State Board adopted this 68 per cent as the basis for equalization purposes."

Plaintiff further alleges and charges that the State Board of Equalization and the County Assessors of the several counties, pursuant to said purpose and plan to undervalue all farm lands in the state for taxing purposes for the year 1921 met in convention at the City of Lincoln on the 18th day of March, 1921, and adopted a resolution in words and figures following, to wit:

"Resolution adopted at State Assessors' Meeting, March 18, 1921.

"At a meeting of the county assessors, held at Lincoln, Nebraska, on March 18, 1921, the following resolution, introduced by Harry W. Scott, of Pawnee City, was adopted:

"'Whereas, there has been an expression representing the sentiment of sixty-four counties and the result of such expression seems to average 15 per cent reductions under 1920 real estate values.

"'Therefore, be it resolved, that it be the sense of this meeting that the aggregate return of the value of real estate in each county be returned to the State Board at not to exceed a 15 per cent reduction.

16 "'It being understood that this shall in no way be binding upon any county, but merely suggests a uniformity of action.

"'Dated this 19th day of March, 1921. (Signed) G. L. Mumford, Secretary-Treasurer.'"

Plaintiff further alleges and charges that the defendant, Osborne, as Tax Commissioner, provided each and every county assessor in the State of Nebraska with a copy of said resolution and stated to said assessor in writing as follows:

"The above and foregoing is a verbatim copy of a resolution adopted by the County Assessors of the State, at their meeting, held in the City of Lincoln, on March 18, 1921, and it is requested by this department that you read the resolution over carefully, so that the result of their labors will be in accordance with the thought of the conference. We very much desire to avoid the necessity of being compelled to again equalize to any great extent by counties this year, feeling as we do, that we have a very good equalization over the state at this time, but where the occasion demands, the State Board will not shirk its duty to fairly and equitably raise or lower any county, to the end that each bears its just relation, one to the other."

Plaintiff further alleges and charges that the said several county assessors, pursuant to said express purpose, returned the valuation of real property in their respective counties at only about 47 per cent of the true value thereof, and that the State Board of Equalization upon receiving said returns from the said several counties equalized the valuations on real property so that the average valuation does not exceed 47 per cent of the true value of real property in the State of Nebraska for the year 1921, and for the year 1922, at only

17 about 60 per cent of the true value of said farm lands; that said concerted action by the said county assessors and the State Board of Equalization to return a valuation for taxing purposes on real property of only about 60 per cent of the true value thereof, was in violation of the Constitution and Laws of the State of Nebraska and in violation of the duties of said officials and in violation of the rights of the plaintiff, whose property has been fixed by said Board of Equalization at more than the true full actual value thereof.

X.

Plaintiff further alleges and charges that the said action of the said Board of Equalization and the several county assessors in under-valuing farm lands for the purposes of taxation pursuant to said

intentional concerted and pre-arranged plan while at the same time valuing the property of the plaintiff at 100 per cent and more of the true value thereof for taxing purposes, constitutes an unlawful discrimination against the plaintiff and compels the plaintiff to bear more than its just proportion of the burden of taxation within the state in violation of the Constitution and Laws of the State of Nebraska, as above set forth; that the action of the State Board of Equalization and the several county authorities in intentionally and systematically under-valuing farm lands, which constitute about 76 per cent of the taxable property of the state, while requiring the plaintiff to pay taxes upon the full actual value and more of its property, constitutes an unjust and unlawful discrimination against the plaintiff and denies plaintiff equal protection of the law guaranteed by the Constitution of Nebraska and the laws of Nebraska, and guaranteed by the Fourteenth Amendment of the Constitution of the United States, and deprives plaintiff of its property without due process of law, in violation of the Fourteenth Amendment to the Constitution of the United States.

18 XI.

Plaintiff further alleges that the intentional and systematic under-valuation by the State Board of Equalization and the several county assessors of farm lands within the State of Nebraska, being about 76 per cent of the total taxable property in said state, at only 68 per cent of the true value thereof, for taxing purposes, while valuing the property of the plaintiff at 100 per cent or more of its true value, and requiring plaintiff to pay taxes on said true value or more constitutes and is an unlawful burden upon interstate commerce, in that more than 90 per cent of the commerce carried by plaintiff over the lines of its railroad in the state of Nebraska is interstate in character; that all taxes which plaintiff is required to pay in the State of Nebraska are chargeable to expenses of operation, and that for the defendants and the State of Nebraska, by said unlawful and intentional discrimination in valuation between plaintiff and other taxpayers in the state, to impose an undue and unlawful expense upon the handling of interstate commerce, constitutes and is an unlawful discrimination against interstate commerce, and an unlawful burden thereon in violation of the Constitution of the United States.

XII.

Plaintiff further alleges that it is entitled to the equal protection of the laws of the State of Nebraska; that said laws of the State of Nebraska make it the duty of the State Board of Equalization and the several county assessors to fix valuations of all property
19 in the State at true, full, actual value; that the said State Board of Equalization has full power to correct any inequality of valuations which may be returned by the several county assessors, and it was the duty of said State Board of Equalization so to do, but

plaintiff alleges that the said State Board of Equalization, in violation of the Constitution and Laws of the State of Nebraska, not only refused to change said valuation so as to put plaintiff upon a basis of equality with other taxpayers, as required by law, but the said State Board of Equalization intentionally co-operated with the said county assessors for the purpose of returning the value of farm property at only 60 per cent of the true value thereof for taxing purposes for the year 1922, while requiring the plaintiff to pay taxes upon full actual value and more of its property within the state; that said action of the taxing authorities mentioned denies to plaintiff equal protection of the law, guaranteed by the Fourteenth Amendment to the Constitution of the United States. But plaintiff alleges that it has no remedy at law in the premises; that heretofore the Supreme Court of the State of Nebraska, by repeated decisions, has held that a taxpayer whose property is assessed at 100 per cent or more of its true value, while the property of other taxpayers is valued at only a fraction of true value, has no remedy save and except to use its best endeavors to have the taxing officials raise the valuations of the property of other taxpayers. And in that behalf plaintiff alleges that it appeared before the State Board of Equalization at the time provided by law and requested and petitioned the State Board of Equalization to either fix the valuation of plaintiff's property on the same percentage of true value as enjoyed by all other taxpayers in the state, by the alternative action by said State Board of Equalization of reducing the value of plaintiff's property to the basis of the others or by raising the valuation of all other property in the State to full 100 per cent actual value thereof, but plaintiff alleges that the said State Board of Equalization denied said petition and has refused to the plaintiff any relief in the premises. And plaintiff alleges that the said State Board of Equalization not only denied plaintiff any relief whatever, but certified to the several county clerks the valuation of plaintiff's property at more than 100 per cent of the full true value thereof and certified the valuation of the farm land in the several counties at only an average of about 60 per cent of the true value thereof, for the year 1922.

XIII.

Plaintiff further alleges that the county clerks of the several counties mentioned, have received said discriminatory valuations certified to them by the State Board of Equalization and have spread upon the tax list the valuation of plaintiff's property at the amount fixed by the State Board of Equalization, which is more than 100 per cent of the true value thereof, and said county clerks have spread upon the tax list the valuations of farm lands in their respective counties at only about 60 per cent average of the true value thereof; and plaintiff alleges and charges that the several defendants, who are county treasurers of the counties mentioned, have, since the first day of November, 1922, called upon the plaintiff to pay taxes in the several counties based upon said unlawful and discriminatory valuation of plaintiff's property, as compared with the valuations of other property

in the county, and plaintiff alleges that said defendants, and each of them, will proceed to carry out said unlawful purpose and will impose upon and collect from plaintiff said unlawful taxes based upon said unlawful valuation and discriminatory basis unless restrained by order of this court.

XIV.

Plaintiff further alleges that it has always been and now is willing to pay its lawful share of the taxes of the state, and in that
21 behalf plaintiff alleges that it is willing and hereby offers to pay the several county treasurers as soon as said taxes become due and payable to said treasurers all taxes lawfully levied against its property based upon a valuation not exceeding 50 per cent of the valuations certified to the several county clerks and the county treasurers by the State Board of Equalization for the year 1922, and plaintiff alleges that it will keep said offer good and will pay said taxes when due upon said basis.

XV.

Plaintiff further alleges that it has no adequate remedy at law; that no appeal whatever is provided from the action of the State Board of Equalization, and plaintiff has no remedy at law and no remedy whatever save by decree of this court restraining and enjoining the defendants from carrying out said unlawful plan and imposing and collecting said unlawful taxes against plaintiff.

XVI.

Plaintiff further alleges and charges that said unlawful taxes constitute a lien against plaintiff's property and a cloud upon plaintiff's title to said property, that the lien of said taxes against plaintiff's property will unlawfully burden plaintiff in its ability to finance its business as a common carrier of interstate commerce, and cripple, injure, and impair the plaintiff in the operation of its line of railroad as a common carrier of interstate commerce. And plaintiff further alleges that the defendant county treasurers, and each of them, will issue numerous distress warrants against the plaintiff and against its property and will cause to be instituted large numbers of suits against the plaintiff for the collection of said unlawful and discriminatory taxes unless restrained from so doing by order of this court.

22 Wherefore, as plaintiff is without remedy at and by the rules of the common law, plaintiff prays:

1. That subpœnaes in equity forthwith issue for the defendants, and each of them, requiring them to answer to the petition of the plaintiff herein, but not under oath, said oath being hereby expressly waived.

2. Plaintiff further prays the Court to enter an order prescribing the percentage of actual value of plaintiff's property upon which plaintiff shall tender taxes to the several county treasurers, defendants

herein, for the year 1922, pending the final determination of this suit.

3. Plaintiff further prays the Court to issue its order of temporary injunction against the defendants, and each of them, upon due notice as required by law, restraining and enjoining the defendants, and each of them, from carrying out their said purpose to impose upon the plaintiff said unlawful and discriminatory valuations of its property for taxing purposes, and to restrain and enjoin the defendants, and each of them, from collecting any taxes against the plaintiff upon a valuation greater than that to be fixed by the Court, in accordance with the prayer of this petition, and that pending such hearing the defendants be restrained from collecting said unlawful taxes.

4. Plaintiff further prays the Court that upon final hearing the Court will issue its order of injunction forever restraining and enjoining the defendants, and each of them, from collecting from the plaintiff or against its property taxes in excess of the just and fair valuation of plaintiff's property and in proportion to the valuation of the property of other taxpayers, as found and fixed by order of this court, and plaintiff further prays the Court for a decree declaring null and void the valuation of plaintiff's property as fixed by
23 the said State Board of Equalization, and as now same appears upon the records of the defendants herein, and discharging plaintiff's property from the pretended lien of said unlawful valuation; and plaintiff prays for such other and further relief in the premises as justice and equity may require. Chicago and North Western Railway Company, By Wymer Dressler, Robert D. Neely, Paul S. Topping, Its Attorneys.

STATE OF NEBRASKA,
County of Douglas, ss:

I, Wymer Dressler, being first duly sworn on oath, depose and say that I am the attorney for the Chicago and North Western Railway Company, a corporation; that I have read the foregoing Petition in Equity and know the contents thereof, and that the statements and allegations therein contained are true; that my information is based upon a personal inspection of the records of the State Board of Equalization and personal knowledge of the action taken by said Board with respect to railroad assessments. Wymer Dressler.

Subscribed and sworn to before me this 24th day of November, 1922. Ruth Levey, Notary Public in and for Douglas County, Nebraska. (Seal.)

[File endorsement omitted.]

24 Afterwards, to-wit: On the 15th day of December, 1922, a Motion to Dismiss was filed in said cause, which is in words and figures following, to-wit:

In the District Court of the United States for the District of Nebraska, Omaha Division.

[Title omitted.]

Motion to Dismiss.

[Filed Dec. 15, 1922.]

Comes now W. H. Osborne, Jr., defendant above named, and moves the court to dismiss the above entitled suit for the following reasons:

1. The plaintiff had a plain, adequate and complete remedy at law for its protection against all of the alleged illegal acts charged in the petition by means of an error proceeding from the State Board of Equalization and Assessment to the Supreme Court of the State of Nebraska.

2. This suit does not involve as much as $3,000 as to each defendant.

3. There is insufficiency of fact alleged in the petition to constitute a valid cause of action in equity against the defendants, or any of them. Clarence A. Davis, Attorney General of Nebraska, By Hugh La Master, Asst. Atty. Genl. of Nebraska, Attorneys for Moving Defendants.

[File endorsement omitted.]

25 Afterwards, to-wit: On the 21st day of December, an Order of Court was filed in said cause, which is in words and figures following, to-wit:

In the District Court of the United States for the District of Nebraska, Omaha Division.

[Title omitted.]

Order Granting Leave to File Supplemental Bill.

[Filed Dec. 28, 1922.]

Now on this 21st day of December, 1922, upon application of the Plaintiff in open Court leave is hereby granted to the Plaintiff to file a supplemental bill making parties defendants the county treasurers of the several counties involved in this suit who shall take office in January, 1923 as successors to those county treasurers who are now defendants in said suit. By the court: J. W. Woodrough, Judge.

[File endorsement omitted.]

26 Chancery Subpœna. Original. Case No. 492. Equity.

Chancery Subpœna and Service.

[Filed Dec. 28, 1922.]

United States District Court, District of Nebraska, Omaha Division.

The President of the United States to W. H. Osborne, Jr., as State Tax Commissioner of the State of Nebraska; H. C. Haverly, as County Treasurer, Adams County, Nebraska; Guy E. Thornton, as County Treasurer, Antelope County, Nebraska; R. M. Hutchinson, as County Treasurer, Boone County, Nebraska; D. J. Tomek, as County Treasurer, Boyd County, Nebraska; Mamie McAndrews, as County Treasurer, Brown County, Nebraska; Philip A. Tomek, as County Treasurer, Butler County, Nebraska; W. E. Haley, as County Treasurer, Cherry County, Nebraska; Harry J. Platz, as County Treasurer, Clay County, Nebraska; George W. Smith, as County Treasurer, Colfax County, Nebraska; Henry Schwinek, as County Treasurer Cuming County, Nebraska; Belle Quinn, as County Treasurer, Dawes County, Nebraska; Joseph Roberts, as County Treasurer, Dodge County, Nebraska; M. L. Endres, as County Treasurer, Douglas County, Nebraska; Lester S. Donisthorpe, as County Treasurer, Fillmore County, Nebraska; R. E. Gallagher, as County Treasurer, Holt County, Nebraska; Harry E. Toof, as County Treasurer, Hamilton County, Nebraska; Edward Matthews, as County Treasurer, Knox County, Nebraska; William Albers, as County Treasurer, Lancaster County, Nebraska; P. W. Ruth, as County Treasurer, Madison County, Nebraska; A. L. Brande, as County Treasurer, Pierce County, Nebraska; Belle Galley, as County Treasurer, Nuckolls County, Nebraska; A. J. Krivcki, as County Treasurer, Platte County, Nebraska; J. C. Wallace, as County Treasurer, Rock County, Nebraska; George F. Bartek, as County Treasurer; Saunders County, Nebraska; C. E. Morefield, as County Treasurer, Seward County, Nebraska; Bruce H. Hewitt, as County Treasurer, Sheridan County, Nebraska; Fred W. Meyer, as County Treasurer, Sioux County, Nebraska; E. B. Roper, as County Treasurer, Thayer County, Nebraska; R. G. Allen, as County Treasurer, Washington County, Nebraska; Frank L. Propst, as County Treasurer, York County, Nebraska; and the successors in office of each of said defendants, Robert Gratton, Co. Treas. of Stanton County, Greeting:

You are hereby commanded to be and appear at the office of the Clerk of the District Court of the United States for the District of Nebraska, on or before the twentieth day after service of this writ, at the City of Omaha, then and there to answer the bill of complaint of Chicago and North Western Railway Company, this day filed against you, hence fail not.

Witness, The Honorable, the Judges of the District Court of the United States for the District of Nebraska, this 24th day of November, 1922.

Issued at my office in the City of Omaha under the Seal of said District Court, the day and year last aforesaid. R. C. Hoyt, Clerk. John Nicholson, Deputy. (Seal.)

Memorandum.—The above-named defendants to file their answer or other defense in this suit in the Clerk's office aforesaid, on or before the twentieth day after service excluding the day thereof, otherwise the bill may be taken pro confesso. R. C. Hoyt, Clerk, By John Nicholson, Deputy.

(This writ is returnable within twenty days from date of issue.)

[File endorsement omitted.]

[Endorsed:] No. —, Equity Docket. Marshal's No. 2888. United States District Court, District of Nebraska, —— Division. (Original.) Chancery subpœna.

Marshal's Costs.

Service	$64.00
Mileage	.....
Expense (in lieu of mileage)	119.80
Total	183.80

27 Attached to said Chancery Subpœna are the following returns by the United States Marshal:

Form 60.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 24th day of November, 1922, I received this Chancery Subpœna, and on the 8th day of November, 1922, I served the same upon the within-named Joe Sedlack, County Treasurer of Colfax County Neb. at Schuyler in Colfax County, State, and District of Nebraska, by delivering to and leaving with him personally a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Anthony J. Ruddy, Deputy United States Marshal.

Form 60.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 24th day of November, 1922, I received this Chancery Subpœna, and on the 8th day of December, 1922, I served the same upon the within-named A. J.

Kriycki, County Treasurer of Platte County, at Columbus in Platte County, State, and District of Nebraska, by delivering to and leaving with him personally a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Anthony J. Ruddy, Deputy United States Marshal.

Form 60.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 24th day of November, 1922, I received this Chancery Subpœna, and on the 9th day of December, 1922, I served the same upon the within-named P. W. Ruth County Treasurer of Madison County at Madison in Madison County, State, and District of Nebraska, by delivering to and leaving with him personally a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Anthony J. Ruddy, Deputy United States Marshal.

28 Form 60.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 24th day of November, 1922, I received this Chancery Subpœna, and on the 9th day of December, 1922, I served the same upon the within-named Robert W. Hutchinson County Treasurer at Boone County at Albion in Boone County, State, and District of Nebraska, by delivering to and leaving with him personally a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Anthony J. Ruddy, Deputy United States Marshal.

Form 60.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 2nd day of December, 1922, I received this Chancery Subpœna, and on the 7th day of December, 1922, I served the same upon the within-named D. J. Tomek, County Treasurer of Boyd County, Nebraska, at Butte in Boyd County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. G. Gannon, Deputy United States Marshal.

Form 60.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 2nd day of December, 1922, I received this Chancery Subpœna, and on the 6th day of

December, 1922, I served the same upon the within-named Edward Matthews, County Treasurer of Knox County, Nebraska, at Center in Knox County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. G. Gannon, Deputy United States Marshal.

29 Form 60.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 2nd day of December, 1922, I received this Chancery Subpœna, and on the 5th day of December, 1922, I served the same upon the within-named A. L. Brande, County Treasurer of Pierce County, Nebraska, at Pierce in Pierce County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. G. Gannon, Deputy United States Marshal.

Form 60.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st, day of Dec. 1922, I received this Chancery Subpœna, and on the 7th day of Dec. 1922, I served the same upon the within-named R. G. Allen, as Treasurer of Washington County, Nebraska, at Blair, in Washington County, State, and District of Nebraska, by deliveringg to and leaving with R. G. Allen a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. A. Davis, Deputy United States Marshal.

Form 60.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st, day of December, 1922, I received this Chancery Subpœna, and on the 5th day of December, 1922, I served the same upon the within-named Philip A. Tomek, Treasurer of Butler County at David City, Nebr. in Butler County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. C. McClung, Deputy United States Marshal.

30 DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st, day of December, 1922, I received this Chancery Subpœna, and on the 6th day of December, 1922, I served the same upon the within-named Lester S. Donisthorpe, Treasurer Filmore Co. at Geneva, Nebra. in Filmore County, State, and District of Nebraska, by delivering to and

leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. C. McClung, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st, day of December, 1922, I received this Chancery Subpœna, and on the 3rd day of December, 1922, I served the same upon the within-named E. B. Roper, Treasurer of Thayer County, at Hebron, Nebr., in Thayer County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. C. McClung, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st, day of December, 1922, I received this Chancery Subpœna, and on the 4th day of December, 1922, I served the same upon the within-named W. H. Osborne, State Tax Commissioner at Lincoln, in Lancaster County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, Nebraska, By J. C. McClung, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st, day of December, 1922, I received this Chancery Subpœna, and on the 4th day of December, 1922, I served the same upon the within-named William Albers, Treasurer of Lancaster County, at Lincoln, in Lancaster County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. C. McClung, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st, day of December, 1922, I received this Chancery Subpœna, and on the 4th day of December, 1922, I served the same upon the within-named George F. Bartek, Treasurer Saunders County, at Wahoo, in Saunders County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. C. McClung, Deputy United States Marshal.

31 DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st, day of December, 1922, I received this Chancery Subpœna, and on the 5th day of December, 1922, I served the same upon the within-named Agnes

Pence, Treasurer of Seward County, at Seward, Nebr. in Seward County, State, and District of Nebraska, by delivering to and leaving with her a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. C. McClung, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st, day of December, 1922, I received this Chancery Subpœna, and on the 5 day of December, 1922, I served the same upon the within-named Fred W. Meyer, County Treasurer Sioux County, at Harrison in Sioux County, State, and District of Nebraska, by delivering to and leaving with him personally a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By A. M. Wright, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st, day of December, 1922, I received this Chancery Subpœna, and on the 5 day of December, 1922, I served the same upon the within-named Bruce H. Hewitt County Treasurer Sheridan County at Rushville in Sheridan County, State, and District of Nebraska, by delivering to and leaving with him personally a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By. A. M. Wright, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st, day of December, 1922, I received this Chancery Subpœna, and on the 4 day of December, 1922, I served the same upon the within-named W. E. Haley County Treasurer Cherry County at Valentine in Cherry County, State, and District of Nebraska, by delivering to and leaving with him personally a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By A. M. Wright, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st, day of December, 1922, I received this Chancery Subpœna, and on the 4 day of December, 1922, I served the same upon the within-named Mamie McAndrews, County Treasurer Brown County, at Ainsworth in Brown County, State, and District of Nebraska, by delivering to and leaving with her personally a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By A. M. Wright, Deputy United States Marshal.

32 DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st day of December, 1922, I received this Chancery subpœna, and on the 4 day of December, 1922, I served the same upon the within-named J. C. Wallace, County Treasurer Rock County, at Bassett in Rock County, State, and District of Nebraska, by delivering to and leaving with him personally a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By A. M. Wright, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st day of December, 1922, I received this Chancery Subpœna, and on the 2 day of December, 1922, I served the same upon the within-named F. A. Nuland, County Treasurer Dawes County, at Chadron in Dawes County, State, and District of Nebraska, by delivering to and leaving with him personally a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By A. M. Wright, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st day of December, 1922, I received this Chancery Subpœna, and on the 6th day of December, 1922, I served the same upon the within-named H. C. Haverly, Treasurer of the County of Adams, at Hastings, in Adams County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Fred R. Mandeville, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st day of December, 1922, I received this Chancery Subpœna, and on the 5th day of December, 1922, I served the same upon the within-named Belle Galley, Treasurer of the County of Nuckolls, at Nelson in Nuckolls County, State, and District of Nebraska, by delivering to and leaving with her a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Fred R. Mandeville, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st day of December, 1922, I received this Chancery Subpœna, and on the 5th day of December 1922, I served the same upon the within-named Harry J. Platz, Treasurer of the County of Clay, at Clay Center, in Clay County, State, and District of Nebraska, by delivering to and leav-

ing with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Fred R. Mandeville, Deputy United States Marshal.

33 DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st day of December, 1922, I received this Chancery subpœna, and on the 4th day of December, 1922, I served the same upon the within-named Frank L. Propst, Treasurer of the County of York, at York in York County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Fred R. Mandeville, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st day of December, 1922, I received this Chancery Subpœna, and on the 4th day of December, 1922, I served the same upon the within-named Harry E. Toof, Treasurer of the County of Hamilton, at Aurora in Hamilton County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Fred R. Mandeville, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st day of December, 1922, I received this Chancery Subpœna, and on the 2nd day of December, 1922, I served the same upon the within-named Guy E. Thornton, as County Treasurer of Antelope County, at Neligh, in Antelope County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Lee A. Weekes, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st day of December, 1922, I received this Chancery Subpœna, and on the 2nd day of December, 1922, I served the same upon the within-named R. E. Gallagher, as County Treasurer of Holt County, at O'Neill, in Holt County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Lee A. Weekes, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st day of December, 1922, I received this Chancery Subpœna, and on the 4th day of December, 1922, I served the same upon the within-named Robert

Gratton, as County Treasurer of Stanton County, at Stanton in Stanton County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Lee A. Weekes, Deputy United States Marshal.

34 DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 1st day of December, 1922, I received this Chancery Subpœna, and on the 4th day of December, 1922, I served the same upon the within-named Henry Schwinek, as County Treasurer of Cuming County, at West Point in Cuming County, State and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Lee A. Weekes, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 24th day of Nov. 1922, I received this chancery subpœna and on the 29th day of Nov. 1922 I served the same upon the within-named M. L. Endres, County Treasurer of Douglas County, Nebraska, at Omaha in Douglas County, State, and District of Nebraska, by delivering to and leaving with M. L. Endres, a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. A. Davis, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 25th day of November, 1922, I received this Chancery Subpœna, and on the 25th day of November, 1922, I served the same upon the within-named Joseph Roberts, Treasurer of Dodge County, at Fremont, in Dodge County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Lee A. Weekes, Deputy United States Marshal.

35 Afterwards, to-wit: On the 2nd day of January, 1923, a Supplemental Petition was filed in said cause, which is in words and figures following, to-wit:

In the District Court of the United States for the District of Nebraska, Omaha Division.

[Title omitted.]

Supplemental Petition in Equity.

[Filed Jan. 2, 1923.]

Comes now the Plaintiff and shows to the Court that since the trial of this cause before three judges and since said cause was taken under advisement and pending a decision an election has occurred whereby certain new officers, County Treasurers, have been elected and should be made parties to this suit and by leave of court heretofore granted Plantiff hereby alleges that the following named Defendants should be made parties to this suit and a subpœna in equity served upon each of them, to-wit:

D. C. Fletcher as County Treasurer of Antelope County, Nebraska.
Bertha Watson as County Treasurer of Boone County, Nebraska.
William Miller as County Treasurer of Butler County, Nebraska.
Joe Sedlacek as County Treasurer of Colfax County, Nebraska.
Fred Wackel as County Treasurer of Cuming County, Nebraska.
O. E. Riggle as County Treasurer of Cherry County, Nebraska.
Otto Bauman as County Treasurer of Douglas County, Nebraska.
Clay Thomas as County Treasurer of Fillmore County, Nebraska.
W. E. Conklin as County Treasurer of Holt County, Nebraska.
A. E. Sutherland as County Treasurer of Lancaster County, Nebraska.
W. L. Boettcher as County Treasurer of Platte County, Nebraska.
H. E. Patch as County Treasurer of Rock County, Nebraska.
E. B. Lyons as County Treasurer of Sioux County, Nebraska.
Clarence S. Marcy as County Treasurer of Sheridan County, Nebraska.
Robert Gratton as County Treasurer of Stanton County, Nebraska.
Agnes J. Pence as County Treasurer of Seward County, Nebraska.
F. C. Cederholm as County Treasurer of Thayer County, Nebraska.
Charles H. Robertson as County Treasurer of Washington County, Nebraska.
Peard B. Woodworth as County Treasurer Adams County, Nebraska.

36 Wherefore, Plaintiff prays the same relief against the above mentioned Defendants as it prayed in its original Petition against the original Defendants, County Treasurers in said respective counties. Chicago and North Western Railway Company, By Wymer Dressler, Robert D. Neely, P. S. Topping, Its Attorneys.

STATE OF NEBRASKA,
County of Douglas, ss:

Robert D. Neely being duly sworn deposes and says that he is one of the Attorneys for the above named Plaintiff; that he has read the foregoing Supplemental Petition in Equity and knows the contents thereof and that the statements therein contained are true as he verily believes. Robert D. Neely.

Subscribed and sworn to before me this 2nd day of January, 1923. Ruth Levey, Notary Public. (Notarial Seal.)

The Clerk will forthwith issue subpoenas in chancery for each of the above mentioned Defendants and deliver same to the Marshal for service, said service to be completed before January 10th, 1923. Wymer Dressler, Robert D. Neely, P. S. Topping, Attorneys for Plaintiff.

[File endorsement omitted.]

37 Afterwards, to-wit: On the 10th day of January, 1923, an Order of Court was filed in said cause, which is in words and figures following, to-wit:

In the District Court of the United States for the District of Nebraska, Omaha Division.

[Title omitted.]

Order Denying Temporary Injunction.

[Filed Jan. 10, 1923.]

Now on this 10th day of January, A. D. 1923, this cause having heretofore been taken under advisement by the court on plaintiff's application for a temporary injunction the Court being well advised in the premises, doth find:

That plaintiff for the redress of the wrongs recited in its petition had an adequate remedy at law under the statutes of the State of Nebraska in prosecuting error proceedings to the Supreme Court of the State of Nebraska, and for that reason there is no equity in the application for a temporary injunction.

It is therefore considered by the Court that plaintiff's application for temporary injunction be and hereby is denied.

To all and singular the findings and judgment of the Court plaintiff excepts and its exceptions are hereby allowed. By the Court: Robt. E. Lewis, Circuit Judge. Thos. C. Munger, District Judge. J. W. Woodrough, District Judge.

[File endorsement omitted.]

38 Afterwards, on the 10th day of January, 1923, an Application for Injunction Pending Appeal, was filed in said cause, which is in words and figures following, to-wit:

In the District Court of the United States for the District of Nebraska, Omaha Division.

[Title omitted.]

Application for Injunction Pending Appeal.

[Filed Jan. 10, 1923.]

Hon. Robert E. Lewis, Circuit Judge, Hon. Thos. C. Munger, District Judge, Hon. J. W. Woodrough, District Judge, Presiding.

Comes now the Plaintiff on this tenth day of January, 1923, the Court having heretofore on this date entered its order denying the prayer of the Plaintiff for an interlocutory injunction against the Defendants and shows to the Court that the Plaintiff will immediately appeal and has appealed to the Supreme Court of the United States from the order of the Court denying Plaintiff's prayer for an interlocutory injunction and Plaintiff further shows to the Court that the whole amount of taxes levied against the Plaintiff and which were withheld by the Plaintiff from payment pending the hearing of the Plaintiff's prayer for a temporary injunction were the sum of four hundred ninety six thousand nine hundred fifty three & 22/100-Dollars ($496,953.22); that Plaintiff has always desired to pay such portion of said taxes as may be justly and legally due the Defendants and Plaintiff asserts that under the pleadings and evidence adduced before this Honorable Court the Plaintiff does not owe to the Defendants taxes in excess of Sixty per cent (60%) of the amount above specified but Plaintiff says that it desires to do equity in the premises and for that purpose

39 Plaintiff is willing to pay Sixty-five per cent (65%) of said taxes pending the outcome of its appeal to the Supreme Court of the United States.

Plaintiff further shows to the Court that notwithstanding the Court has entered its Order denying any relief to the Plaintiff on the ground that Plaintiff had an adequate remedy at law by way of error proceedings to the Supreme Court of Nebraska which deprived the Court of jurisdiction to grant Plaintiff any relief in the premises the Plaintiff most respectfully represents to the Court that said decision of the Court was erroneous and Plaintiff should have the privilege of testing the validity of the Court's Order by appeal to the Supreme Court of the United States and in the meantime be protected against the payment to the Defendants of that portion of said taxes which the Plaintiff claims, and the proof shows Defendants are not lawfully entitled to collect; and Plaintiff further represents and shows to the Court that justice and equity will be promoted if the Court will make and enter an order enjoining

the Defendants, pending the appeal, from collecting from the Plaintiff a greater amount then sixty-five per cent (65%) of said taxes; that if the Court should refuse to grant such an order pending appeal Plaintiff will be compelled, by distress warrants, to pay the whole amount of said taxes to the Defendants and Defendants will disburse the money thus paid and Plaintiff will be without remedy and Plaintiff fears that in such event the question presented by Plaintiff's appeal will become moot in the Supreme Court of the United States and Plaintiff will be without any remedy whatever for the protection of its rights in the premises.

Plaintiff further shows and represents to the Court that Plaintiff is solvent and is able, ready and willing to execute a bond with good and sufficient surety in such sum as the Court may direct fully protecting the Defendants and the public, so that in the event the Supreme Court of the United States shall hold that the order of this Court denying Plaintiff's prayer for an interlocutory injunction was properly entered the whole amount of said taxes may be secured to the Defendants and to the public together with interest thereon and the costs of the appeal.

Plaintiff further shows and represents to the Court that the percentage of taxes to be paid to the Defendants pending the appeal are believed by the Plaintiff under the pleadings and the evidence and the law in this case to not exceed sixty per cent (60%), yet Plaintiff desires to do full equity and if the Court should be of the opinion that a different percentage of taxes should be paid as a condition of an injunction against the collection of the balance pending appeal Plaintiff is willing that the Court shall fix the percentage of taxes above mentioned which shall be paid as a condition of an injunction against the Defendants restraining them from collecting the balance of said taxes pending appeal.

Wherefore, Plaitiff prays that the Court will enter an order prescribing and fixing the percentage of taxes above mentioned which shall be forthwith paid to the Defendants as a condition of an injunction against the Defendants restraining them from collecting the balance of said taxes pending appeal of the Plaintiff to the Supreme Court of the United States. The Plaintiff further prays the Court to enter its order restraining and enjoining the Defendants, their officers, agents, employes and successors in office from collecting or attempting to collect from the Plaintiff the balance of said taxes other than the percentage the Court shall fix to be paid pending Plaintiff's appeal to the Supreme Court of the United States.

Plaintiff further prays the Court to fix and prescribe the amount of bond which Plaintiff shall give as a supersedeas bond to protect the Defendants and the public against loss on account of the Plaintiff being permitted to withhold such portion of said taxes as the Court shall prescribe until the determination of the appeal of the Plaintiff by the Supreme Court of the United States and for such other relief as justice and equity require in the premises.

Wymer Dressler, R. D. Neely, Paul S. Topping, Attorneys for Plaintiff.

STATE OF NEBRASKA,
County of Douglas, ss:

Wymer Dressler being duly sworn deposes and says that he is solicitor for the Plaintiff in the above entitled cause; that he personally prepared the Petition in Equity in this cause; that he represented the Plaintiff at the trial of said cause and is familiar with the pleadings and evidence in said cause; that he has read the foregoing application which was prepared by him personally; that he believes said application to be true and that he believes that justice and equity will be promoted by the Court granting the order of injunction and the other things in said application prayed for; that the appeal in this case is taken in good faith and not for the purpose of delay, and will be prosecuted speedily and the cause brought to a final determination with all reasonable dispatch. Wymer Dressler.

Subscribed and sworn to before me this 10th day of January, 1922. Ruth Levey, Notary Public. (Notarial Seal.)

[File endorsement omitted.]

42 Afterwards, to-wit: On the 10th day of January, 1923, an Order of Court was filed in said cause, which is in words and figures following, to-wit:

In the District Court of the United States for the District of Nebraska.
Omaha Division.

[Title omitted.]

Order Fixing Percentage of Taxes to be Paid.

[Filed Jan. 10, 1923.]

Now on this tenth day of January, 1923, the Court having heretofore entered its Order denying to the Plaintiff an interlocutory injunction in this cause on the ground that Plaintiff had an adequate remedy at law by way of error proceedings to the Supreme Court of Nebraska, and the Plaintiff having given notice of its appeal to the Supreme Court of the United States from said Order; and the Plaintiff having presented its application for an order fixing the percentage of taxes to be paid by Plaintiff pending Plaintiff's appeal to the Supreme Court of the United States and prescribing the amount of bond which Plaintiff shall give as the condition for the Court granting an order of injunction restraining and enjoining the Defendants from collecting the balance of said taxes pending the determination of said appeal; and the Court being of the opinion that the Defendants cannot be harmed and the rights of the Plaintiff will be promoted by having an opportunity to present said appeal to the Supreme Court of the United States.

It is by the Court ordered and decreed that the Plaintiff shall pay or offer to pay to the Defendant County Treasurers or their successors

in office as their respective interests may appear seventy-five per cent (75%) of the taxes now being withheld by the Plaintiff and
43 that pending the determination of Plaintiff's appeal by the Supreme Court of the United States and until the further order of the Court the Defendants, their officers, agents and successors in office be and they hereby are restrained and enjoined from collecting or attempting to collect from the Plaintiff the balance of said taxes after the payment of said percentage above prescribed, in counties when the total amount of tax levied against property is over $3,000, exclusive of interest.

It is further ordered that Plaintiff shall execute a bond in favor of the Defendants and the State of Nebraska for the use and benefit of the Defendants and their successors in office in the sum of one hundred & fifty thousand dollars ($150,000) which bond may be approved by the Hon. J. W. Woodrough, District Judge. Robt. E. Lewis, United States Circuit Judge. Thos. C. Munger, United States District Judge. J. W. Woodrough, United States District Judge.

[File endorsement omitted.]

44 Afterwards, to-wit: On the 10th day of January, 1923, an Assignment of Errors was filed in said cause, which is in words and figures following, to-wit:

In the District Court of the United States for the District of Nebraska, Omaha Division.

[Title omitted.]

Assignment of Errors.

[Filed Jan. 10, 1923.]

Now comes the Plaintiff in the above entitled cause and files the following Assignment of Errors upon which it will rely upon its prosecution of the appeal in the above entitled cause from the Order and Decree made by this Honorable Court (three Judges presiding) on the tenth day of January, 1923.

1.

That the United States District Court for the District of Nebraska, Omaha Division, erred in denying Plaintiff's application for a temporary injunction in this cause.

2.

That the United States District Court for the District of Nebraska, Omaha Division, erred in its decision embodied in its Order dated January 10, 1923, that Plaintiff has an adequate remedy at law as therein recited.

Wherefore, Appellant prays that said Order and Decree be reversed and that said District Court of the United States for the District of Nebraska, Omaha Division, be ordered and directed to hear and determine said cause upon the merits and to grant to Appellant a temporary injunction as prayed in its Petition.

Dated this tenth day of January, A. D. 1923. Wymer Dressler, F. W. Sargent, R. N. Van Doren, Attorneys for Appellant.

[File endorsement omitted.]

45 Afterwards, to-wit: On the 10th day of January, 1923, a Petition for Appeal was filed in said cause, which is in words and figures following, to-wit:

In the District Court of the United States for the District of Nebraska, Omaha Division.

[Title omitted.]

Petition for Appeal.

[Filed Jan. 10, 1923.]

To the Honorable District Court of the United States for the District of Nebraska, Omaha Division:

The above named Plaintiff feeling aggrieved by the order and decree rendered and entered in the above entitled cause on the tenth day of January, 1923 which Order and Decree was made by the Hon. Robert E. Lewis, Circuit Judge, Hon. Thomas C. Munger, District Judge and Hon. J. W. Woodrough, District Judge, composing said Court, does hereby appeal from said Decree to the Supreme Court of the United States for the reasons set forth in the Assignment of Errors filed herewith and prays that said appeal be allowed and that citation be issued as provided by law, and that a transcript of the record, proceedings and documents upon which said Decree was based, duly authenticated, be sent to the Supreme Court of the United States sitting at Washington, D. C. under the rules of such Court in such cases made and provided.

And your Petitioner further prays that an Order relating to the security to be required of it be made.

Dated this 10th day of January, A. D. 1923. Chicago and North Western Railway Company, By Wymer Dressler, F. W. Sargent, R. N. Van Doren, Its Attorneys.

[File endorsement omitted.]

46 Citation—U. S. Supreme Court. 492. Equity. (Appeal.)

Citation and Service.

[Filed Jan. 17, 1923.]

The United States of America to W. H. Osborne, Jr., as State Tax Commissioner of the State of Nebraska, et al., and to Hugh La Master, Assistant Attorney General of Nebraska, and O. S. Spillman, Attorney General of Nebraska, attorneys for said defendants, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States at the City of Washington, thirty days from and after the day this Citation bears date, pursuant to an appeal, filed in the Clerk's office of the District Court of the United States for the District of Nebraska, wherein Chicago and North Western Railway Company is Appellant, and you are appellee, to show cause, if any there be, why the judgment rendered against the said appellant as in said appeal mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable Judges of the District Court of the United States for the District of Nebraska, this 10th day of January, A. D. 1923. J. W. Woodrough, United States District Judge, District of Nebraska.

Return.

I hereby certify and return that I received this Citation on the 11th day of January, 1923 and on the same day I served the same upon the within named W. H. Osborne, Jr. as State Tax Commissioner of the State of Nebraska, and Hugh La Master, Assistant Attorney General of Nebraska, and O. S. Spillman, Attorney General of Nebraska, by delivering a certified copy to Hugh La Master their Attorney of record.

Dated this 11th day of January, 1923. D. H. Cronin, U. S. Marshal, By J. C. McClung, Deputy.

[File endorsement omitted.]

47 Afterwards, to-wit: On the 19th day of January, 1923, an Order Allowing Appeal, was filed in said cause, which is in words and figures following, to-wit:

In the District Court of the United States for the District of Nebraska, Omaha Division.

[Title omitted.]

Order Allowing Appeal.

[Filed Jan. 19, 1923.]

On motion of Wymer Dressler, Esquire, Solicitor and Counsel for Complainant, it is hereby Ordered that an appeal to the Supreme Court of the United States from the Order and decree denying a temporary injunction in this cause heretofore filed and entered herein be and the same is hereby allowed and that a certified transcript of the record and all proceedings, including such statement of the evidence as may be allowed and filed, be forthwith transmitted to said Supreme Court of the United States.

It is further ordered that the Bond on Appeal be fixed at the sum of One Hundred Fifty Thousand and no/100 Dollars ($150,000.00), to be conditioned upon the payment to the several Defendant County Treasurers or their successors in office of the amounts of the taxes which have been levied for the year 1922 as the Court shall finally adjudicate to be due together with legal interest and penalties thereon as provided by law, and of the amounts of such taxes, interest, penalties and damages and costs which shall be ascertained to be due by this Court, the same to act as a Supersedeas Bond and also as a bond for costs and damages on appeal, as this day authorized by Order of the Court.

Dated this 16 day of January, A. D. 1923. J. W. Woodrough, District Judge. Robt. E. Lewis, Circuit Judge. Thos. C. Munger, District Judge.

[File endorsement omitted.]

48 In the District Court of the United States for the District of Nebraska, Omaha Division.

[Title omitted.]

Supersedeas Bond.

[Filed Jan. 19, 1923.]

Know all men by these presents: That Chicago and North Western Railway Company, as Principal, and National Surety Company, a Corporation of the State of New York, as Surety, are held and firmly bound unto the Defendant, W. H. Osborne, Jr. as State Tax Commissioner, and the other Defendants in this case as his and their interests may appear in the sum of One Hundred Fifty

Thousand and no/100 Dollars ($150,000.00), for the payment whereof well and truly to be made to said Defendants and their successors in office, we bind ourselves, jointly and severally, firmly by these presents.

Yet upon the condition, that whereas, on the tenth day of January, 1923, the District Court of the United States for the District of Nebraska, Omaha Division, said Court being then composed of three judges, entered an injunction in the case of Chicago and North Western Railway Company vs. W. H. Osborne, Jr. as State Tax Commissioner, et al. Equity Number 942 restraining and enjoining said County Treasurers, Defendants in said suit, from collecting certain taxes claimed to be due from the Plaintiff to said Defendant Treasurers for the year 1922 in the State of Nebraska pending an appeal to the Supreme Court of the United States from an order of said Court denying a temporary injunction in said case, and Plaintiff having appealed to the Supreme Court of the United States from the order of the District Court denying Plaintiff a temporary injunction in the case.

49 Now therefore, if the Chicago and North Western Railway Company shall prosecute said appeal to effect and shall pay to said Defendant County Treasurers or their successors in office the amounts of taxes which have been levied for the year 1922 as this Court shall finally adjudicate to be due said County Treasurers from said Plaintiff, together with legal interest, damages and penalties thereon as provided by law, to be ascertained by this Court, and shall pay the amounts of such taxes, interest, penalties and damages and costs as may be adjudged against said Railway Company upon said appeal if it fails to make good its appeal, then this obligation to be void, otherwise to remain in full force and effect.

Dated this 16 day of January, A. D. 1923. Chicago and North Western Railway Company, Principal, By Wymer Dressler, Robert D. Neely, Paul S. Topping, Its Attorneys. National Surety Company, Surety, by L. M. Mielenz, Resident Vice-President, by W. H. Wheeler, Resident Assistant Secretary. (Seal.)

The foregoing bond and surety thereon are hereby approved this 16 day of January, A. D. 1923. For the court: J. W. Woodrough, District Judge. Robt. E. Lewis, Circuit Judge. Thos. C. Munger, District Judge.

[File endorsement omitted.]

50 Afterwards, to wit: On the 25th day of January, 1923, a Motion to Dismiss was filed in said cause, which is in words and figures following, to wit:

In the District Court of the United States for the District of Nebraska, Omaha Division.

[Title omitted.]

Motion to Dismiss.

[Filed Jan. 25, 1923.]

Come now the defendants and move the Court to dismiss the above entitled suit for the following reasons:

1. The plaintiff had a plain, adequate and complete remedy at law for its protection against all of the alleged illegal acts charged in the petition by means of an error proceeding from the State Board of Equalization and Assessment to the Supreme Court of the State of Nebraska, which remedy it failed to pursue.
2. This suit does not involve as much as $3,000, exclusive of interest and costs, as to each defendant.
3. There is insufficiency of fact alleged in the petition to constitute a valid cause of action in equity against the defendants, or against any of them. O. S. Spillman, Attorney General of Nebraska; Hugh La Master, Asst. A'ty. Gen'l of Nebraska, Attorneys for Defendants.

[File endorsement omitted.]

51 Afterwards, to wit: On the 30th day of January, 1923, an Appearance was filed in said cause, which is in words and figures following, to wit:

In the District Court of the United States for the District of Nebraska, Omaha Division.

[Title omitted.]

Appearance.

[Filed Jan. 30, 1923.]

Comes now Hugh La Master and hereby enters the appearance of all the Defendants in the above entitled cause this 10th day of January, 1923. Hugh La Master, Attorney for Defendants.

[File endorsement omitted.]

52 Afterwards, to wit: On the 30th day of January, 1923, Notice of Lodgement was filed in said cause, which is in words and figures following, to wit:

In the District Court of the United States for the District of Nebraska, Omaha Division.

[Title omitted.]

Notice.

[Filed Jan. 30, 1923.]

To Hugh La Master, Counsel for Defendants:

Take notice that on the 24th day of January, 1923, Plaintiff and Appellant lodged with R. C. Hoyt, Clerk of the United States District Court Omaha, a statement of the evidence in the above entitled cause, a true copy of which is herewith served upon you.

You will be expected, within ten days, to file any additional matter which you desire to be included in said statement otherwise, at the expiration of ten days, Appellant will ask the Hon. J. W. Woodrough, United States District Judge, to sign and settle said statement of the evidence to be made a part of the record.

Dated this 24th day of January, A. D. 1923. Wymer Dressler, R. N. Van Doren, F. W. Sargent, Attorneys for Appellant.

Received a copy of this Notice and a copy of the Statement of the Evidence referred to this 24th day of January, A. D. 1923. O. S. Spillman, Atty. Gen.; Hugh La Master, Asst. Atty. Gen., Attorneys for Defendants and Appellees.

[File endorsement omitted.]

53 Chancery Subpœna. Original. Case No. 492. Equity.

Chancery Subpœna and Service.

[Filed Feb. 6, 1923.]

United States District Court, District of Nebraska, Omaha Division.

The President of the United States to D. C. Fletcher as County Treasurer of Antelope County, Nebraska; Bertha Watson as County Treasurer of Boone County, Nebraska; William Miller as County Treasurer of Butler County, Nebraska; Joe Sedlacek as County Treasurer of Colfax County, Nebraska; Fred Wackel as County Treasurer of Cuming County, Nebraska; O. E. Riggle as County Treasurer of Cherry County, Nebraska; Otto Bauman as County Treasurer of Douglas County, Nebraska; Clay Thomas as County Treasurer of Fillmore County, Nebraska; W. E. Conklin as County Treasurer of Holt County, Nebraska; A. E. Sutherland as County Treasurer of Lancaster County, Nebraska; W. L. Boettcher as County Treasurer of Platte County, Nebraska; H. E.

Patch as County Treasurer of Rock County, Nebraska; H. B. Lyons as County Treasurer of Sioux County, Nebraska; Clarence S. Marcy as County Treasurer of Sheridan County, Nebraska; Robert Gratton as County Treasurer of Stanton County, Nebraska; Agnes J. Pence as County Treasurer of Seward County, Nebraska; F. C. Cederholm as County Treasurer of Thayer County, Nebraska; Charles H. Robertson as County Treasurer of Washington County, Nebraska; Pearl B. Woodworth as County Treasurer of Adams County, Nebraska, Greeting:

You are hereby commanded to be and appear at the office of the Clerk of the District Court of the United States for the District of Nebraska, on or before the twentieth day after service of this writ, at the City of Omaha, then and there to answer the bill of complaint of Chicago and North Western Railway Company, this day filed against you, hence fail not.

Witness, The Honorable, the Judges of the District Court of the United States for the District of Nebraska, this 2nd day of January, 1923.

Issued at my office in the City of Omaha, under the Seal of said District Court, the day and year last aforesaid. R. C. Hoyt, Clerk. John Nicholson, Deputy. (Seal.)

Memorandum.—The above-named defendants to file their answer or other defense in this suit in the Clerk's office aforesaid, on or before the twentieth day after service excluding the day thereof, otherwise the bill may be taken pro confesso. R. C. Hoyt, Clerk, By John Nicholson, Deputy.

(This writ is returnable within twenty days from date of issue.)

[File endorsement omitted.]

54 Attached to said Chancery Subpœna are the following returns made by the United States Marshal:

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 14 day of January, 1923, I received this Chancery Subpœna and on the 24 day of January, 1923, I served the same upon the within-named O. Riggle, County Treasurer Cherry County, Neb., at Valentine, in Cherry County, State, and District of Nebraska, by delivering to and leaving with him personally, a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By A. M. Wright, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 14th day of January, 1923, I received this Chancery Subpœna and on the 23rd day of January, 1923, I served the same upon the within-named Clarence S. Marcy,

County Treasurer Sheridan County, at Rushville in Sheridan County, State, and District of Nebraska, by delivering to and leaving with him personally, a certified copy thereof, wtih all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By A. M. Wright, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 14 day of January, 1923, I received this Chancery Subpœna and on the 16 day of January, 1923, I served the same upon the within-named Edward B. Lyons true named, as County Treasurer Sioux County, Neb. at Harrison in Sioux County, State, and District of Nebraska, by delivering to and leaving with him personally a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By A. M. Wright, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 13th day of January, 1923, I received this Chancery Subpœna and on the 15th day of January, 1923, I served the same upon the within-named Pearl Woodworth, Treasurer of the County of Adams at Hastings, in Adams County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Fred R. Mandeville, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 13th day of January, 1923, I received this Chancery Subpœna and on the 20th day of January, 1923, I served the same upon the within-named William D. Miller, as County Treasurer Butler County, Nebraska, at David City, in Butler County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. C. McClung, Deputy United States Marshal.

55 DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 13th day of January, 1923, I received this Chancery Subpœna and on the 19th day of January, 1923, I served the same upon the within-named Agnes Pence, as County Treasurer, Seward County, Nebraska, at Seward, in Seward County, State, and District of Nebraska, by delivering to and leaving with her, a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. C. McClung, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 13th day of January, 1923, I received this Chancery Subpœna and on the 18th day of January, 1923, I served the same upon the within-named Clay Thomas, as County Treasurer, Fillmore County, Nebraska, at Geneva, in Fillmore County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. C. McClung, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 13th day of January, 1923, I received this Chancery Subpœna and on the 18th day of January, 1923, I served the same upon the within-named Francis Cederholm, as County Treasurer, Thayer County, Nebraska at Hebron, in Thayer County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. C. McClung, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 13th day of January, 1923, I received this Chancery Subpœna and on the 19th day of January, 1923, I served the same upon the within-named Albert E. Sutherland, as County Treasurer, of Lancaster County, Nebraska, at Lincoln, in Lancaster County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. C. McClung, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 12th day of January, 1923, I received this Chancery Subpœna and on the 16th day of January, 1923, I served the same upon the within-named Robert Gratton, as County Treasurer of Stanton County, Nebraska, at Stanton in Stanton County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. A. Davis, Deputy United States Marshal.

56 DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 12th day of January, 1923, I received this Chancery Subpœna and on the 16th day of January, 1923, I served the same upon the within-named Fred Wackel, as County Treasurer of Cuming County, Nebraska, at West Point in Cuming County, State, and District of Nebraska, by delivering to and leaving with him, a certified copy thereof, with all the indorsements

thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. A. Davis, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 12th day of January, 1923, I received this Chancery Subpœna and on the 17th day of January, 1923, I served the same upon the within-named H. E. Patch, as County Treasurer of Rock County, Nebraska, at Bassett, in Rock County, State, and District of Nebraska, by delivering to and leaving with him, a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. Davis, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 12th day of January, 1923, I received this Chancery Subpœna and on the 17th day of January, 1923, I served the same upon the within-named W. E. Conklin, as County Treasurer of Holt County, Nebraska, at O'Neil in Holt County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. A. Davis, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 12th day of January, 1923, I received this Chancery Subpœna and on the 17th day of January, 1923, I served the same upon the within-named D. C. Fletcher, as County Treasurer of Antelope County, Nebraska, at Neligh, in Antelope County, State, and District of Nebraska, by delivering to and leaving with him, a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. A. Davis, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 5th day of January, 1923, I received this Chancery Subpœna and on the 5th day of January, 1923, I served the same upon the within-named Joe Sedlacek, County Treasurer Colfax County, Neb., at Schuyler, in Colfax County, State, and District of Nebraska, by delivering to and leaving with him personally, a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Anthony J. Ruddy, Deputy United States Marshal.

57 DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 5th day of January, 1923, I received this Chancery Subpœna and on the 6th day of January, 1923, I served the same upon the within-named Bertha Watson, County Treasurer of Boone County, Neb., Albion, in Boone County,

State, and District of Nebraska, by delivering to and leaving with her personally, a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Anthony J. Ruddy, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 5th day of January, 1923, I received this Chancery Subpœna and on the 5th day of January, 1923, I served the same upon the within-named W. L. Boettcher, County Treasurer*m* Platte County, Neb., at Columbus, in Platte County, State, and District of Nebraska, by delivering to and leaving with P. J. Schaecher, he being Deputy Treasurer and the highest officer found within my District, a certified copy thereof, with all the endorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By Anthony J. Ruddy, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 12th day of January, 1923, I received this Chancery Subpœna and on the 12th day of January, 1923, I served the same upon the within-named Otto J. Bauman, as County Treasurer, Douglas County, Nebraska, in Douglas County, State, and District of Nebraska, by delivering to and leaving with him a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. A. Davis, Deputy United States Marshal.

DISTRICT OF NEBRASKA, *ss:*

I hereby certify and return, that on the 8th day of Janaury, 1923, I received this Chancery Subpœna and on the 9th day of January, 1923, I served the same upon the within-named Charles H. Robertson, as County Treasurer of Washington County, Nebraska, at Blair in Washington, County, State, and District of Nebraska, by delivering to and leaving with him, a certified copy thereof, with all the indorsements thereon. D. H. Cronin, United States Marshal for the District of Nebraska, By J. A. Davis, Deputy United States Marshal.

58 Afterwards, to-wit: On the 7th day of February, A. D. 1923, a Præcipe for Transcript was filed in said cause, which is in words and figures following, to-wit:

In the District Court of the United States within and for the District of Nebraska, Omaha Division.

[Title omitted.]

Præcipe.

[Feb. 7, 1923.]

To the Clerk of said Court:

Please prepare a transcript for appeal to the Supreme Court, and include:

Petition;
Subpœna and return;
Leave to file Supplemental Bill;
Supplemental Bill;
Subpœna and return;
Appearance for all defendants;
Order denying Temporary Injunction;
Motion to Dismiss;
Application for Injunction Pending Appeal;
Order Allowing Injunction Pending Appeal;
Statement of Evidence;
Notice of Lodgement;
Appeal papers;
Præcipe for Transcript;
Dated this 30th day of January, 1923. Wymer Dressler, Attorney for Appellant.
Service accepted, this 31st day of January, 1923. O. S. Spillman, Attorney General of Nebraska; Hugh La Master, Asst. Atty. Gen., Attorney- for Appellees.

[File endorsement omitted.]

39 **Statement of Evidence.**

Afterwards, to-wit: On the 7th day of February, 1923, a Statement of Evidence was filed in said cause, which is in words and figures following, to-wit:

Index to Statement of Evidence.

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Statement of the case	1 to 6
Plaintiff's evidence:	
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Affidavit of C. F. Balch (Plff's Ex. 1-A)	27A to 39
Exhibit att'd to above Affidavit, att'd at	40
Affidavit of T. A. Polleys (Plff's Joint Ex. 2)	41 to 49

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Exhibits att'd to above Affidavit, att'd at 50
Affidavit of T. A. Polleys (Plff's Joint Ex. 3) ..... 51 to 54
Statement of Allegations in Petition of C. & N. W. vs. Osborne, et al., Equity No. 339 ..... 55 to 58
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Digest of C. B. & Q. Exhibits 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 13, 14, 21, 25 and 28, which were offered in evidence on behalf of plaintiff herein ..... 86 to 94
Complaint filed by plaintiff herein with Board of Equalization in 1922 ..... 95 to 97
Bill of Exceptions, proceedings before Board of Equalization, July 1922 ..... 98 to 218
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60 Defendant's evidence:

Defendant's Exhibit 4, being page 471, Fourth Annual Report Nebraska State Railway Commission 372
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Mr. Lamaster's offer of above named Defendant's Exhibits 4 and 5, and colloquy pertaining thereto, as occurred on the hearing of the application for temporary injunction 374
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Digest of testimony of Herman A. Penner given on the trial of above entitled cases 377
Digest of Defendant's Exhibit 11 (certified copy of physical valuation record Nebraska State Railway Commission with respect to C. St. P. M. & O.) 378
Digest of Defendant's Exhibit 12 (certified copy of physical valuation record Nebraska State Railway Commission with respect to C. & N. W.) 378
Digest of Defendant's Exhibit 13 (compilation of 58 Affidavits as to comparison of market value of real estate as between years 1920, 1921, 1922, compared with assessed value) 379
61 Digest of Defendant's Exhibit 14 (Affidavits of land owners as to ratio of assessed value to actual value of land) 379

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Digest of Defendant's Exhibit 16 (Affidavits of County Clerks and Registers of Deeds showing land transfers and ratio of assessed value to selling price, July 1921 to July 1922) 379

Digest of Defendant's Exhibit 17 (Affidavit of A. M. Clark as to instructions received from Tax Commissioner) 380

Digest of Defendant's Exhibit 25 (Statistics of Railway relating to taxes and Railway assessments in various States) 380

Digest of Defendant's Exhibit 26 (Certain pages of report of Department of Agriculture of Nebraska contrasting volume of crops with net return) 381

Digest of Defendant's Exhibits 28, 29 and 30 (copies of reports by United States Department of Commerce, as to decrease in commodity prices, particularly agricultural prices, during the years 1920 to 1922) 381

Digest of Defendant's Exhibit 32 (Affidavit of Osborne, Tax Commissioner, denying attempt to tax carriers unjustly, etc.) 381

Colloquy between Dressler, Lamaster, Root and Judge Lewis with reference to above Exhibit 382

Digest of Defendant's Exhibit 33 (Affidavit of Osborne, Tax Commissioner, in re Affidavit filed by Scribner showing conveyances March 1921 to April 1922.
62 Mr. Osborne claiming decrease in value of farm lands but stationary assessment thereof) .. 383

Statement of offer of Defendant's Ex. 40 (pp. 237, 238, and 239, Vol. 58 Reports of Interstate Commerce Commission, Ex Parte 74) 383

Plaintiff's rebuttal testimony:

Plaintiff's Exhibit 6 (p. 633, Seventh Annual Report Nebraska State Railway Commission, "physical valuation of steam railroads July 1, 1913"—C. & N. W. property) ..... 384 to 386

Page 639 same Report—as to C. St. P. M. & O ..... 386 to 387

Colloquy between Judge Lewis, Mr. Lamaster and Judge Munger as to claimed disproportionate taxation of C. St. P. M. & O. and C. & N. W. and farm lands 388

63 In the District Court of the United States for the District of Nebraska, Lincoln Division.

[Title omitted.]

Statement of Evidence.

Upon the hearing of the application of plaintiff for a temporary injunction before Honorable Robert E. Lewis, Circuit Judge, Honorable Thomas C. Munger, District Judge, and Honorable J. W. Wood-

rough, District Judge, at Omaha, Nebraska, beginning the 18 day of December, 1922, and continuing to and upon the 21 day of December, 1922, the following proceedings material to this appeal were had:

64 Appearances:

For the Chicago & North Western Railway Company, Mr. Wymer Dressler.

For the Chicago, St. Paul, Minneapolis & Omaha Railway Company, Mr. Wymer Dressler and Mr. R. L. Kennedy.

For the Chicago, Burlington Railroad Company, Mr. Bruce Scott, Mr. Byron Clark, Mr. Jesse L. Root, Mr. J. W. Weingarten, Mr. C. W. Krohl.

For Defendants, Mr. Clarence A. Davis, Attorney General of the State of Nebraska, and Hugh Lamaster.

Three suits were pending in this court involving the same issues. An application for temporary injunction was made in each of said suits, the three applications being heard and considered at the same time by the three judges above named. Said suits were entitled Chicago, Burlington & Quincy Railroad Company vs. W. H. Osborne, Jr., as Tax Commissioner of the State of Nebraska, et al; Chicago & Northwestern Railway Company vs. W. H. Osborne, Jr., as Tax Commissioner of the State of Nebraska, et al; and Chicago, St. Paul, Minneapolis & Omaha Railway Company vs. W. H. Osborne, Jr., as Tax Commissioner of the State of Nebraska,

65 et al.

It was stipulated in open court by the parties to the three suits that any and all evidence introduced by any of the parties should be considered as received in evidence in each of said cases so far as applicable to the issues raised therein.

Upon motion of plaintiff, Chicago & Northwestern Railway Company, leave was granted to amend the pe-tion herein by substituting in lieu of paragraph VIII the following:

"VIII. Plaintiff further alleges that the value of plaintiff's property in the State of Nebraska does not exceed $32,100,000.00 and that the value per mile of plaintiff's property does not exceed $29,129.00 per mile, and that the valuation of $38,714,373.00 for plaintiff's property as fixed by said state board of equalization is excessive by at least $6,614,373.00; that the valuation per mile of $36,475.00 as fixed by the State Board Equalization is excessive by at least $7,346.00 per mile."

Upon motion of the plaintiff, Chicago & Northwestern Railway Company, leave was granted to amend paragraph XIV of the

66 petition herein by offering to pay taxes upon 60 per cent of the valuation of its property as certified to the several county clerks and county treasurers by the State Board of Equalization for the year 1922 or upon such other proportion of such valuation as the Court might, upon final hearing, determine to be equitable and just.

Upon motion of the plaintiff, Chicago, St. Paul, Minneapolis & Omaha Railway Company, leave was granted to amend the petition herein by substituting in lieu of paragraph VIII, the following:

"VIII. Plaintiff further alleges that the value of plaintiff's property in the State of Nebraska does not exceed $7,000,000.00, and that the value per mile of plaintiff's property does not exceed $21,691.00 per mile, and that the valuation for plaintiff's property as fixed by said state Board of Equalization is excessive by at least $5,392,905.00; that the valuation per mile as fixed by said State Board of Equalization is excessive by at least $19,209.00."

It was admitted by the parties in open court that plaintiff has paid to the respective city and village officers in Nebraska all taxes assessed and levied against the plaintiffs in 1922 for city and village purposes, and such taxes are not involved in this suit.

In the opening statement of counsel for defendants it was stated
67 that the defendants had investigated land sales in forty counties in Nebraska during the period from July 1, 1921 to July 1, 1922, which showed that

"During the whole year the ratio of the assessed valuation of lands to the sale price was about 60.95 per cent. For the period ending July, 1922, that is during the first six months of the present year, the ratio of the assessed value to the sale price was 65.40 per cent."

In said opening statement counsel for defendants further stated:

"We have affidavits with reference to values from about 60 persons. They were secured through the offices of the county attorneys of the counties all over the state. They represent about—I have forgotten the exact number—about 20 counties, and they show that the ratio of assessed value to the fair market value is 74.28 per cent, that is, those affidavit figures averaged show about 74.28 per cent."

Counsel for defendants further stated:

"Now, our contention will be, your Honors, that with this basis of somewhere from 60 to 75 per cent of the actual value being the assessed value—we do not contend of course, that the assessed value is the actual value, that would be an absurdity to make that contention for any class of property, railroads included. There never has been in Nebraska an absolutely cash value of any species of property. With the value put upon the property of over 60 to 75 per cent, and as the year goes on it is an increasingly larger amount owing to the gradual decrease in the *f*alue of farm lands, that is as large a proportion, and a larger proportion than the Burlington was assessed; it is as much as the North westerned, it is not so large as the M. & O."

The following colloquy occurred:

Mr. Dressler: In view of your statement would you be will-
68 ing to stipulate and save a lot of proof that the ratio of assessment of lands to the true value was somewhere between 60 and 70 per cent?

Mr. Lamaster: No, I should not. I don't think it is 70 per cent. I said from 65 to 75 and a fraction per cent."

69 PLAINTIFF'S EVIDENCE.

Plaintiff's Exhibit 1.

The Plaintiff offered in evidence the affidavit of C. F. Balch, marked Plaintiff's Exhibit 1, which was as follows:

"STATE OF ILLINOIS,
County of Cook, ss:

I, C. F. Balch, being first duly sworn, on my oath depose and state:

I.

That I am and for more than two years last past have been the Assistant General Auditor of the Chicago and North Western Railway Company, and for ten years immediately prior thereto I was statistician for said railway company. That for a period of three years, or from September 1, 1907, to August 1, 1910, I was Examiner of Accounts for the Interstate Commerce Commission of Washington, D. C. That prior thereto I was in the service of the Chicago, Rock Island & Pacific Railway Company as Auditor of Disbursements and Special Accountant, and for about eighteen years prior thereto I was in the Accounting Department of the Chicago and Northwestern Railway Company.

II.

70 That during all of said time it has been my chief duty to familiarize myself with the method of accounting of various railway companies, and especially the Chicago and Northwestern Railway Company, and that for the past eleven years, while serving said company as statistician and assistant general auditor it has been and still is my duty to examine into the books and records of said Company and compile figures for the purpose of showing the value of said railway system as a unit and by states.

III.

That by virtue of the authority vested in me as assistant general auditor of the Chicago and Northwestern Railway Company, I have examined the records of said Railway system and compiled full, true and correct figures showing the value of said railway property, both as to the entire system and as to the State of Nebraska, for the period commencing January 1, 1916, and ending December 31, 1921; and I have been duly authorized to set forth said figures for the purpose of showing the value of this Railway Company's property for

the entire system and for the State of Nebraska, covering the period aforesaid.

IV.

That Exhibits 1 to 7, inclusive, attached to this affidavit
71 incorporated herein and made a part hereof, have been made by me and under my direction and personal supervision for the purpose of showing the value of the property of the Chicago and Northwestern Railway System from 1916 to 1921, inclusive, and especially the value of said system which should be properly allocated to the State of Nebraska for the purposes of taxation.

V.

That Exhibit No. 1, hereto attached, is a statement showing the value of the entire line of the Chicago & Northwestern Railway for the period mentioned and as represented by:

1st. The Par Value of Stocks and Bonds.

2nd. The Market Value of Stocks and Bonds.

3rd. The net Railway Operating Income capitalized at 6% per annum.

4th. The annual rental paid by the United States Government capitalized at 6%, which is the rental which was paid by the United States Government annually to the Chicago and Northwestern Railway during the period of Federal control,—from January 1, 1916, to February 29, 1920,—and which was agreed upon by the Government and the Chicago and Northwestern Railway as a fair and
72 just compensation for the use of the property.

5th. For the years 1920 and 1921 only, the amount which was allowed as the valuation of the Chicago and Northwestern Railway by the Interstate Commission in Ex Parte 74 and upon which they determined a reasonable return should be received by the Chicago and Northwestern Railway Company.

These various values are set forth for each year for the entire line in total and also per mile of road operated. Special attention is called to the fact that for the year 1920, figured on the basis of net railway operating income capitalized at six per cent, there was no net operating income, and in truth and in fact the entire system for that year was operated at a deficit, or the amount received in revenue was less than the amount actually expended in operating the system.

Attention is here directed to the lower line of this exhibit, which shows that the average value of the system, determined for the year 1916 upon the four different methods combined, was $403,229,955.00, or equivalent to $49,734.00 per mile of road; for the year
73 1917 the value arrived at by the same method was $383,875,374.00, or equivalent to $47,422.00 per mile of road; for the year 1918 the value of the entire system was $330,988,230.00, or $40,911.00 per miles of road; for 1919 the value for the entire system was $332,616,713.00, or $41,112.00 per mile of road; and for the

year 1920 the value of the entire system was $308,468,690.00, or $36,712.00 per mile of road, and for the year 1921 the value for the entire system was $328,128,903.00, or $39,052.00 per mile of road.

In the last column to the right of said exhibit are set forth figures which show the average value per mile of road of the entire system for a period of six years, determined by each of the five foregoing methods. By combining all of the resu-ts of these different methods we find the average to be $42,136.00 per miles of road.

VI.

Exhibit No. 2 is a statement showing, on the upper line, for each year from 1916 to 1921, inclusive, and an average for the six years, the valuation as shown in Exhibit No. 1 as represented in the par value of stocks and bonds of the Chicago and Northwestern Railway Company outstanding in the hands of the public on December 31st of the years aforesaid. Taking the year 1916 for an ex-
74 ample this value has been apportioned to the State of Nebraska on six different bases, to-wit:

1st. On line 2, Railway Operating Revenue. This allocates to the State of Nebraska eight per cent of the value of the entire line, upon the theory that railway operating revenues in the State of Nebraska for the year 1916 were eight per cent of the railway operating revenues of the entire system. The railway operating revenues allocated to the State of Nebraska were those revenues arising from all traffic, whether passenger or freight, originating and terminating in the State of Nebraska, plus a mileage proportion of all other traffic which either originated in the State of Nebraska and terminated in some other State, or originated in some other State and terminated in the State of Nebraska, or which originated and terminated in some other States but passed through the State of Nebraska,—this method of assignment being that required of this company by the State of Minnesota for its use in determining the taxes of said State according to the statutes of that State governing this subject, and this method is employed by this company
75 in all of its assignments of revenue to the different States in which it operates. The revenues so assigned in the year 1916 were 8% of the total operating revenues of the Chicago and Northwestern Railway Company. By applying this percentage of 8 to the valuation of $356,484,000, we determine the value in the State of Nebraska to be $28,678,720 for the year 1916. On the same line of this exhibit, to the right of the year 1916, is shown separately for each of the years 1917, 1918, 1919, 1920 and 1921, as determined by the same process for each year, the value of the property of this Company allocated to the State of Nebraska, and in the next column to the right is shown the Accumulated Total, then the Average Value for six years, and the Average per mile of Road for the six year period.

2nd. On line 3 of this exhibit is shown the value of the property in Nebraska as determined by taking that percentage of the total value of the entire line which the miles of line operated in the State

of Nebraska bear to the miles of line operated of the entire system. In the year 1916, this was 13.59 per cent of the entire system, and this percentage applied to the value of $358,484,000.00 determines a value in the state of Nebraska of $48,717,976.00. To the
76 right of this figure on line 3 are shown the values for the years 1917, 1918, 1919, 1920, and 1921, determined in the same manner. To the right of this the accumulated total, the Average for the six years, and the value per mile of road in the State of Nebraska, as so determined.

3rd. On line 4 is shown the value in the State of Nebraska as determined by taking the total miles of all track operated in the state of Nebraska and comparing it with the total miles of all track operated in the entire system. For the year 1916 it was found that 10.03 per cent of all tracks operated was in the state of Nebraska, and applying this percentage to the total value for the year 1916 of $358,484,000 we determined that the total value of the property in the State of Nebraska is $35,955,945. To the right of this figure on line 4 is shown the valñe for each of the years 1917, 1918, 1919, 1920, and 1921, together with the accumulated total, the average for six years, and the average per mile of road in the State of Nebraska, as so determined.

4th. On line 5 is shown the value in the State of Nebraska as determined by taking that proportion of the transportation train miles which were performed in the state of Nebraska com-
77 pared with the transportation train miles performed on the entire system. In the year 1916 it was found that 9.28 per cent of the total transportation train miles was performed in the State of Nebraska, and this percentage applied to the total valuation of $358,484,000 shows the value in the State of Nebraska to be $33,267,315. To the right of this figure on line 5 is shown the value for the years 1917, 1918, 1919, 1920, and 1921, determined in the same manner, and to the right of this the accumulated total, the average for the six years, and the average per mile of road in the State of Nebraska.

5th. On line 6 is shown the value in the state of Nebraska as determined by the traffic units performed in the State of Nebraska as compared with the traffic units performed on the entire system. The traffic units are the tons one mile of revenue freight carried and the passengers one mile of the passengers carried. The total tons one mile of the entire line and the passengers one mile of the entire line were combined, and the total tons one mile and the passengers one mile in the State of Nebraska were combined, and the percentage relation of that combined total in the state of Nebraska to the combined total of the entire system was found to be 5.08 per cent for the year 1916, and this percentage applied
78 to the total valuation of $358,484,000, determined the value in the state of Nebraska on this basis to be $18,210,987. To the right of this amount on line 6 are shown the values for each of the years 1917, 1918, 1919, 1920 and 1921, determined in the same manner, and to the right of this the accumulated total, the average for the six years, and the average per mile of road in the State of Nebraska.

6th. On line 7 is shown the value in the state of Nebraska as determined by the "use of property" in the state of Nebraska. This basis is described as follows:

The valuation of the entire property was first analyzed and classified into five groups, as follows:

Valuation of locomotives.
" " Passenger cars.
" " Freight cars.
" " Work cars.
" " all other property.

The valuation of locomotives was then assigned to the State of Nebraska on the basis of the proportion of the locomotive miles in the State of Nebraska as compared with the locomotive miles of the entire system. The value of the passenger cars was assigned to the state of Nebraska on the basis of the proportion of passenger miles performed in the State of Nebraska compared with the pas-
79 senger car miles of the entire system. The value of the freight cars was assigned to the State of Nebraska in the proportion which the freight car mileage in the State of Nebraska bears to the freight car mileage of the entire line. The value of work equipment was assigned to the State of Nebraska on the basis of the proportion that the combined passenger and freight car miles in the State of Nebraska bear to the combined freight and passenger car miles of the entire system. Aggregating these values, which represent the use of all classes of equipment, and finding that proportion which the aggregate value in the State of Nebraska bears to the aggregate value of the entire line to be 7.20 per cent for the year 1916, and applying this percentage to the total valuation of $358,484,000 determined the value in the State of Nebraska on this basis to be $25,810,848. To the right of this amount on line 7 are shown the values for each of the years 1917, 1918, 1919, 1920, and 1921, determined in the same manner, and to the right of this the accumulated total, the average for the six years, and the average per mile of road in the State of Nebraska.

7th. On line 8 is shown, for each year, the combined total of the values as determined by the six different methods above
80 enumerated. By dividing this total by 6, we find the average valuation. In the year 1916 this valuation is $31,773,632. Dividing this by the mileage of road operated in the state of Nebraska, which is 1,102.05, we find the value per mile of road operated to be $28,831; for the year 1917, we find it to be $30,645; for the year 1918, $32,000; for the year 1919, $33,705; for the year 1920, $33,877; and for the year 1921, $34,878, or an average for the six years as determined by the six different methods of allocation aforesaid of $32,322 per mile of road.

VII.

On Exhibit 3, line 1, is shown the value of the entire Chicago and North Western System for each of the years enumerated, as

represented by the market value of all its stocks and bonds in the hands of the public. This value has been determined by taking the high and low quotations for each month from the market quotations of these stocks and bonds, and applying the average for each year to the total amount of each separate security outstanding. Following this method, the total value of the entire system as represented by the market value of its stocks and bonds in the hands of the public is found to be—

For the year 1916	$406,336,070
" " " 1917	382,417,649
" " " 1918	350,845,542
" " " 1919	352,606,093
81	
For the year 1920	$335,072,088
" " " 1921	319,686,771

the average for the six years being $357,827,369, or $43,648 per mile of road.

These values have been allocated, each year separately, to the State of Nebraska on the following bases:

1st. Railway operating Revenues.
2nd. Miles of Line Operated.
3rd. Miles of all Track Operated.
4th. Transportation Train Miles.
5th. Traffic Units.
6th. Use of Property.

In the use of each of these six different bases, the method following in each instance is that described in computing Exhibit No. 2.

The six different amounts so determined combined; and an average of the same found by dividing *ty* 6, gives the valuation in the State of Nebraska, as follows:

	Total value (line 9).	Value per mile of road (line 11).
For the year 1916	$36,014,920	$32,680
" " " 1917	34,946,600	31,711
" " " 1918	32,640,330	29,618
" " " 1919	34,478,999	31,286
" " " 1920	30,988,583	28,151
" " " 1921	30,226,385	27,459
Average for the 6 years	33,215,970	30,152

The market value of these stocks and bonds should be given serious consideration because it represents the value placed upon this property by the purchasing public, and if it had been
82 possible to have acquired all of the stocks and bonds at the market quotations of these dates, the ownership of the entire property could have been acquired at this price.

VIII.

On Exhibit No. 4, line 1, will be found the valuation of the entire system as calculated by capitalizing the net railway operating income of the entire system at six per cent for each year mentioned. The net railway operating income as used in this exhibit is determined by taking the railway operating revenue, deducting therefrom the railway operating expenses, railway tax accruals, uncollectible railway revenue and the net charge or credit, from the charges to hire of equipment, and joint facility rentals, leaving as the net railway operating income that amount which the corporation received and which is applicable to its corporate needs, dividends, interest, etc. This amount capitalized at six per cent produced the following values for the entire system:

For the year	1916	$461,416,157
" " "	1917	396,836,754
" " "	1918	207,357,286
" " "	1919	211,312,501
" " "	1920 the line was operated at a deficit and no value shown.	
" " "	1921	110,852,283

The average for the six years was $231,295,831, or an average per mile of road of $28,214. These values have been allocated,
83 each year separately, to the State of Nebraska on six different bases, as follows:

1st. Railway operating Revenues.
2nd. Miles of line operated.
3rd. Miles of all Track Operated.
4th. Transportation Train Miles.
5th. Traffic Units.
6th. Use of Property.

In the use of each of these different bases, the method followed in each instance is that described in computing Exhibit No. 2.

The six amounts so determined were added and divided by 6, thus producing a valuation in the State of Nebraska, as follows:

		Total value (line 9).	Value per mile of road (line 11).
For the year	1916	$40,896,852	$37,110
" " "	1917	36,264,265	32,906
" " "	1918	19,291,140	17,505
" " "	1919	20,662,841	18,749
" " "	1920	000	000
" " "	1921	10,481,083	9,521
Average for the 6 years		21,866,030	19,304

IX.

On Exhibit No. 5, line 1, will be found the values as shown on line 5 of Exhibit No. 1. The value of the entire line is calculated by capitalizing at six per cent the annual rental paid by the Government to the Chicago and North Western Railway for the use of its property during the period from January 1, 1918, to Feb-
84 ruary 29, 1920. This rental payment was based upon the operating results of the three years ending June 30, 1917, which included the year 1916 which was the most prosperous year in the history of this line. The net operating income obtained through the operation of the system during the year 1916, being greater than that ever obtained by this system in any other one year, the government rental was based upon this factor of net operating income. Upon this basis we find the valuation of the Chicago and North Western Railway System to be as follows:

For the year	1916	$386,683,593
" " "	1917	386,683,593
" " "	1918	386,683,593
" " "	1919	386,683,593
" " "	1920	389,400,476
" " "	1921	389,400,476

The average for the six years was $387,589,221, or an average per mile of road of $47,278. These values have been allocated, each year separately, to the State of Nebraska, on six different bases, as follows:

1st. Railway Operating Revenues.
2nd. Miles of Line Operated.
3rd. Miles of All Track Operated.
4th. Transportation Train Miles.
5th. Traffic Units.
6th. Use of Property.

In the use of each of these six different bases, the method followed in each instance is that described in computing Exhibit No. 2.
85 Adding together the six amounts so determined and dividing by 6, we find the value in the State of Nebraska to be as follows:

		Total value (line 9).	Value per mile of road (line 11).
For the year	1916	$34,273,056	$31,099
For the year	1917	35,336,435	32,064
" " "	1918	35,974,463	32,643
" " "	1919	37,811,211	34,310
" " "	1920	36,013,054	32,715
" " "	1921	36,817,815	33,446
Average for the 6 years		36,037,672	32,713

X.

On Exhibit No. 6, line 1, is shown the value of the entire system as claimed in Ex Parte 74 to be the value upon which the Interstate Commerce Commission should base their action in determining the six per cent return to be used as their basis in prescribing reasonable rates. This amount is $451,433,733. The Interstate Commerce Commission, in determining the values upon which they would base their calculations, stated a valuation, as claimed by the carriers of the western Group of $8,818,454,872, but allowed the carriers in the Western Group a valuation of $8,100,000,000 as that value upon which they were entitled to a reasonable return. The percentage reduction arrived at by using these two amounts is 8.15 per cent. Applying this percentage of reduction so de-
86 termined by the Interstate Commerce Commission in Ex Parte 74 to the amount claimed by the Chicago and North Western Railway of $451,433,733, we find a valuation of $414,641,884, which, according to the decision of the Interstate Commerce Commission, is the amount determined by them as the valuation upon which the Chicago and Northwestern Railway is entitled to a fair return. This valuation for the years 1920 and 1921 has been apportioned to the State of Nebraska on the following bases:

1st. Railway Operating Revenues.
2nd. Miles of Line Operated.
3rd. Miles of All Track Operated.
4th. Transportation Train Miles.
5th. Traffic Units.
6th. Use of Property.

In the use of each of these six different bases, the method followed in each instance is that described in computing Exhibit No. 2.

XI.

Exhibit No. 7 is a recapitulation of these different values arrived at by the different methods of allocation applied to the different valuations as determined in the foregoing exhibits, showing for each of the different processes the aggregate total valuation in the State of Nebraska and the valuation per mile of road.
87 Dividing the accumulated total by 26, we find that the average valuation arrived at by a composite of all of these different processes for the State of Nebraska is a total of $32,088,874, or $29,129 per mile of road.

By comparing this value per mile of road of $29,129 with the ral-tive figure for the entire line of $42,136 (See Exhibit 1), it will be noted that the property of this company in the State of Nebraska has a value per mile of road of 68.4 per cent of the average of the entire line. This conclusion is entirely consistent with the percentages shown in the lower portion of Exhibit 2, which indicates that the transportation activities of the Chicago and North Western Railway in the State of Nebraska are considerably less than the

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Chicago and North Western Railway Company.

Exhibits Compiled by C. F. Balch Relating to Nebraska Taxes.—Hearing of May, 1922.

90

Exhibit No. 1 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Value of Road Operated.

Entire Line.

Value of entire line as represented by Exhibit No.	1916.	1917.	1918.	1919.	1920.	
2. Par Value of Stocks & Bonds	$358,484,000	$369,563,500	$379,066,500	$379,862,500	$403,229,000	$
3. Market " " " " "	406,336,070	382,417,649	350,845,542	352,606,093	335,072,088	
4. Net Railway Operating Income Capitalized at 6%	461,416,157	396,836,754	207,357,286	211,312,504	000,000	
5. Annual Rental Paid by Government Capitalized at 6%.	386,683,593	386,683,593	386,683,593	386,683,593	389,400,476	
6. Amount allowed in Ex Parte 74	.....	.....	.....	.....	414,641,884	
Total	$1,612,919,820	$1,535,501,496	$1,323,952,921	$1,330,464,690	$1,542,343,448	$1,
Average of above	$403,229,955	$383,875,374	$330,988,230	$332,616,173	$308,468,690	$

Value Per Mile of Road Operated.

Miles of Road Operated	8,107.82	8,094.95	8,090.45	8,090.45	8,402.28	
2. Par Value of Stocks & Bonds	$44,215	$45,654	$46,854	$46,952	$47,990	
3. Market " " " " "	50,116	47,242	43,365	43,583	39,879	
4. Net Railway Operating Income Capitalized at 6%	56,910	49,022	25,630	26,119	00,000	
5. Annual Rental Capitaiized at 6%	47,693	47,768	47,795	47,795	46,344	
6. Amount allowed in Ex Parte 74	.....	.....	.....	.....	49,349	
Total	$198,934	$189,686	$163,644	$164,449	$183,562	
Average of above	$49,734	$47,422	$40,911	$41,112	$36,712	

Accounting Department
B File U-80, 4/26/22.

—5 Year Average 1917 to 1921 Incl.—

$896,603 divided by 22 items equals $40,755 $1,095,537

$7,372,907,069 divided by 22 items equals $335,132,139 $8,985,826,880

*2 Year Average.

Chicago and North Western Railway Company.

Exhibits Compiled by C. F. Balch Relating to Nebraska Taxes.—Hearing of May, 1922.

Exhibit No. 1 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Value of Road Operated.

Entire Line.

No.	1916.	1917.	1918.	1919.	1920.	1921.	Accumulated total.	Average for 6 years.
.....	$358,484,000	$369,563,500	$379,066,500	$379,862,500	$403,229,000	$406,063,100	$2,296,268,600	$382,711,433
.....	406,336,070	382,417,649	350,845,542	352,606,093	335,07 ,088	319,686,771	2,146,964,213	357,827,369
at 6%....	461,416,157	396,836,754	207,357,286	211,312,504	000,000	110,852,283	1,387,774,984	231,295,831
ed at 6%.	386,683,593	386,683,593	386,683,593	386,683,593	389,400,476	389,400,476	2,325,535,324	387,589,221
.....	.....	.....	.....	.....	414,641,884	414,641,884	829,283,768	*414,641,884
.....	$1,612,919,820	$1,535,501,496	$1,323,952,921	$1,330,464,690	$1,542,343,448	$1,640,644,514	$8,985,826,889	.....
.....	$403,229,955	$383,875,374	$330,988,230	$332,616,173	$308,468,690	$328,128,903	.....	$345,608,727

Value Per Mile of Road Operated.

.....	8,107.82	8,094.95	8,090.45	8,090.45	8,402.28	8,402.28	49,188.23	8,198.04
.....	$44,215	$45,654	$46,854	$46,952	$47,990	$48,328	$279,993	$46,666
.....	50,116	47,242	43,365	43,583	39,879	38,048	262,233	43,706
.....	56,910	49,022	25,630	26,119	00,000	13,193	170,874	28,479
at 6%....	47,693	47,768	47,795	47,795	46,344	46,344	283,739	47,290
.....	.....	.....	.....	.....	49,349	49,349	98,698	*49,349
.....	$198,934	$189,686	$163,644	$164,449	$183,562	$195,262	$1,095,537	.....
.....	$49,734	$47,422	$40,911	$41,112	$36,712	$39,052	.....	$42,136

—5 Year Average 1917 to 1921 Incl.—

$896,603 divided by 22 items equals $40,755

$7,372,907,069 divided by 22 items equals $335,132,139

—6 Year Average—

$1,095,537 divided by 26 items equals $42,136

$8,985,826,889 divided by 26 items equals $345,608,727

Exhibit No. 2 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

	1916.	1917.	1918.	1919.	1920.	1921.
1. Value of Entire Line as represented by Par Value of Stocks and Bonds	$358,484,000	$369,563,500	$379,066,500	$379,862,500	$403,229,000	$406,063,1
Apportioned to State of Nebraska on basis of:						
2. Railway Operating Revenues	$28,678,720	$30,636,814	$31,272,986	$33,465,886	$32,177,674	$34,515,3
3. Miles of line operated	48,717,976	50,334,549	51,628,857	51,737,273	52,822,999	53,194,2
4. Miles of all track operated	35,955,945	37,843,302	38,816,410	38,897,920	40,242,254	40,606,3
5. Transportation Train Miles	33,267,315	34,406,362	37,906,650	41,139,109	41,371,295	41,296,6
6. Traffic Units	18,210,987	20,289,036	20,962,377	22,905,709	22,661,470	25,622,5
7. Use of Property	25,810,848	29,121,604	31,007,640	34,719,433	34,476,080	35,124,4
8. Total	$190,641,791	$202,631,667	$211,594,920	$222,865,330	$223,751,772	$230,359,5
9. Value State of Nebr. (Avg. of Six)	31,773,632	33,771,944	35,265,820	37,144,222	37,291,962	38,393,2
10. Miles of Road Operated in Nebr	1,102.05	1,102.05	1,102.05	1,102.05	1,100.80	1,100.8
11. Value per Mile of Road Operated	$28,831	$30,645	$32,000	$33,705	$33,877	$34,87
Ratios allotted to State of Nebr.:						
12. Railway Operating Revenues	8.00	8.29	8.25	8.81	7.98	8.4
13. Miles of line Operated	13.59	13.62	13.62	13.62	13.10	13.1
14. Miles of all track Operated	10.03	10.24	10.24	10.24	9.98	10.0
15. Transportation Train Miles	9.28	9.31	10.00	10.83	10.26	10.1
16. Traffic Units	5.08	5.49	5.53	6.03	5.62	6.2
17. Use of Property	7.20	7.88	8.18	9.14	8.55	8.6

Accounting Department B File U-80 4/24/22.

Exhibit No. 2 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

1916.	1917.	1918.	1919.	1920.	1921.	Accumulated total.	Average for six years.	Average per mile of road.	
358,484,000	$369,563,500	$379,066,500	$379,862,500	$403,229,000	$406,063,100	$2,296,268,600	$382,711,433	$46,683	Entire Line
$28,678,720	$30,636,814	$31,272,986	$33,465,886	$32,177,674	$34,515,364	$190,747,444	$31,791,241	$28,859	Nebr.
48,717,976	50,334,549	51,628,857	51,737,273	52,822,999	53,194,266	308,435,920	51,405,987	46,664	"
35,955,945	37,843,302	38,816,410	38,897,920	40,242,254	40,606,310	232,362,141	38,727,023	35,154	"
33,267,315	34,406,362	37,906,650	41,139,109	41,371,295	41,296,617	229,387,348	38,231,225	34,704	"
18,210,987	20,289,036	20,962,377	22,905,709	22,661,470	25,622,582	130,652,161	21,775,360	19,766	"
25,810,848	29,121,604	31,007,640	34,719,433	34,476,080	35,124,458	190,260,063	31,710,010	28,785	"
190,641,791	$202,631,667	$211,594,920	$222,865,330	$223,751,772	$230,359,597	$1,281,845,077	$213,640,846	193,932	"
31,773,632	33,771,944	35,265,820	37,144,222	37,291,962	38,393,266	213,640,846	35,606,808	32,322	"
1,102.05	1,102.05	1,102.05	1,102.05	1,100.80	1,100.80	6,609.80	1,101.63	.....	
$28,831	$30,645	$32,000	$33,705	$33,877	$34,878	.....	$32,322	.....	
8.00	8.29	8.25	8.81	7.98	8.50	.....	.....	.....	
13.59	13.62	13.62	13.62	13.10	13.10	.....	.....	.....	
10.03	10.24	10.24	10.24	9.98	10.00	.....	.....	.....	
9.28	9.31	10.00	10.83	10.26	10.17	.....	.....	.....	
5.08	5.49	5.53	6.03	5.62	6.31	.....	.....	.....	
7.20	7.88	8.18	9.14	8.55	8.65	.....	.....	.....	

Exhibit No. 3 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

	1916.	1917.	1918.	1919.	1920.	192
1. Value of Entire Line as represented by Market Value of Stocks & Bonds	$406,336,070	$382,417,649	$350,845,542	$352,606,093	$335,072,088	$319,68
Apportioned to State of Nebraska on basis of:						
2. Railway Operating Revenues	$32,506,886	$31,702,423	$28,944,757	$31,064,597	$26,738,752	$27,17
3. Miles of line Operated	55,221,072	52,085,284	47,785,163	48,024,950	43,894,444	41,87
4. Miles of all track Operated	40,755,508	39,159,567	35,926,583	36,106,864	33,440,194	31,96
5. Transportation Train Miles	37,707,987	35,603,083	35,084,554	38,187,240	34,378,396	32,51
6. Traffic Units	20,641,872	20,994,729	19,401,758	21,262,147	18,831,051	20,17
7. Use of Property	29,256,197	30,134,511	28,699,165	32,228,197	28,648,663	27,65
8. Total	$216,089,522	$209,679,597	$195,841,980	$206,873,995	$185,931,500	$181,35
9. Value State of Nebr. (Average of 6)	$36,014,920	$34,946,600	$32,640,330	$34,478,999	$30,988,583	$30,22
10. Miles of Road Operated in Nebraska	1,102.05	1,102.05	1,102.05	1,102.05	1,100.80	1,
11. Value per Mile of Road Operated	$32,680	$31,711	$29,618	$31,286	$28,151	$2

Accounting Department B File U-80, 4/27/22.

Exhibit No. 3 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

1916.	1917.	1918.	1919.	1920.	1921.	Accumulated total.	Average for 6 years.	Average per mile of road.	
06,336,070	$382,417,649	$350,845,542	$352,606,093	$335,072,088	$319,686,771	$2,146,964,213	$357,827,369	$43,648	Entire Line
32,506,886	$31,702,423	$28,944,757	$31,064,597	$26,738,752	$27,173,376	$178,130,791	$29,688,465	26,950	Nebr.
55,221,072	52,085,284	47,785,163	48,024,950	43,894,444	41,878,967	288,889,880	48,148,313	43,706	"
40,755,508	39,159,567	35,926,583	36,106,864	33,440,194	31,968,677	217,357,393	36,226,232	32,884	"
37,707,987	35,603,083	35,084,554	38,187,240	34,378,396	32,512,145	213,473,405	35,578,901	32,297	"
20,641,872	20,994,729	19,401,758	21,262,147	18,831,051	20,172,235	121,303,792	20,217,299	18,352	"
29,256,197	30,134,511	28,699,165	32,228,197	28,648,663	27,652,906	176,619,639	29,436,607	26,721	"
6,089,522	$209,679,597	$195,841,980	$206,873,995	$185,931,500	$181,358,306	$1,195,774,900	$199,295,817	$180,910	"
36,014,920	$34,946,600	$32,640,330	$34,478,999	$30,988,583	$30,226,385	$199,295,817	$33,215,970	$30,152	"
1,102.05	1,102.05	1,102.05	1,102.05	1,100.80	1,100.80	6,609.80	1,101.63	.....	
$32,680	$31,711	$29,618	$31,286	$28,151	$27,459	.....	$30,152	.....	

Exhibit No. 4 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Assignment of Property Values to State of Nebraska.

	1916.	1917.	1918.	1919.	1920.	
1. Value of Entire Line as represented by Net Railway Operating Income capitalized at 6%.....	$461,416,157	$396,836,754	$207,357,286	$211,312,504	000,000	$1
Apportioned to State of Nebraska on basis of						
2. Railway Operating Revenue.....	$36,913,292	$32,897,767	$17,106,976	$18,616,632	.....	$
3. Miles of line Operated.....	62,706,456	54,049,166	28,242,062	28,780,763	.....	1
4. Miles of all track Operated.....	46,280,041	40,638,084	21,233,386	21,638,400	.....	1
5. Transportation Train Miles.....	42,819,419	36,945,502	20,735,729	22,885,144	.....	1
6. Traffic Units	23,439,941	21,786,338	11,466,858	12,742,144	.....	
7. Use of Property.....	33,221,963	31,270,736	16,961,826	19,313,963	.....	
8. Total	245,381,112	217,585,593	115,746,837	123,977,046	.....	6
9. Value State of Nebr. (Avg. of 6).....	40,896,852	36,264,265	19,291,140	20,662,841	.....	1
10. Miles of Road Operated in Nebraska.....	1,102.05	1,102.05	1,102.05	1,102.05	1,102.05	
11. Value per Mile of Road Operated.....	$37,110	$32,906	$17,505	$18,749	.....	

Accounting Department.
B File U-80, 4/24/22.

Exhibit No. 4 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Assignment of Property Values to State of Nebraska.

1916.	1917.	1918.	1919.	1920.	1921.	Accumulated total.	Average for six years.	Average mile of road.	
$461,416,157	$396,836,754	$207,357,286	$211,312,504	000,000	$110,852,283	$1,387,774,984	$231,295,831	$28,214	Entire Line
$36,913,292	$32,897,767	$17,106,976	$18,616,632	.....	$9,422,444	$114,957,111	$19,159,519	$17,392	Nebr.
62,706,456	54,049,166	28,242,062	28,780,763	.....	14,521,649	188,300,096	31,383,349	28,488	"
46,280,041	40,638,084	21,233,386	21,638,400	.....	11,085,228	140,873,139	23,478,857	21,313	"
42,819,419	36,945,502	20,735,729	22,885,144	.....	11,273,677	134,659,471	22,443,245	20,373	"
23,439,941	21,786,338	11,466,858	12,742,144	.....	6,994,779	76,430,060	12,738,343	11,563	"
33,221,963	31,270,736	16,961,826	19,313,963	.....	9,588,722	110,357,210	18,392,868	16,696	"
245,381,112	217,585,593	115,746,837	123,977,046	.....	62,886,499	765,577,087	127,596,181	115,825	"
40,896,852	36,264,265	19,291,140	20,662,841	.....	10,481,083	127,596,181	21,266,030	19,304	"
1,102.05	1,102.05	1,102.05	1,102.05	1,102.05	1,100.80	6,609.80	1,101.63	.....	
$37,110	$32,906	$17,505	$18,749	.....	$9,521	.....	$19,304	.....	

Exhibit No. 5 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

	1916.	1917.	1918.	1919.	1920.	192
1. Value of Entire Line as calculated by Annual Rental paid by Government Capitalized at 6%..	$386,683,593	$386,683,593	$386,683,593	$386,683,593	$389,400,476	$389,40
Apportioned to State of Nebraska on basis of						
2. Railway Operating Revenues.....	$30,934,687	$32,056,070	$31,901,396	$34,066,825	$31,074,158	$33,09
3. Miles of line Operated.....	52,550,300	52,666,305	52,666,305	52,666,305	51,011,462	51,01
4. Miles of all track Operated.....	38,784,364	39,596,400	39,596,400	39,596,400	38,862,167	38,94
5. Transportation Train Miles.....	35,884,237	36,000,242	38,668,359	41,877,833	39,952,489	39,60
6. Traffic Units	19,643,526	21,228,929	21,383,603	23,317,021	21,884,307	24,57
7. Use of Property.....	27,841,219	30,470,667	31,630,718	35,342,880	33,293,741	33,68
8. Total	$205,638,333	$212,018,613	$215,846,781	$226,867,264	$216,078,324	$220,90
9. Value State of Nebr. (Avg. of 6).....	$34,273,056	$35,336,435	$35,974,463	$37,811,211	$36,013,054	$36,81
10. Miles of Road Operated in Nebr.....	1,102.05	1,102.05	1,102.05	1,102.05	1,102.05	1,10
11. Value per Mile of Road Operated.....	$31,099	$32,064	$32,643	$34,310	$32,715	$3

Accounting Department.
B File U-80, 4/24/22.

Exhibit No. 5 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

1916.	1917.	1918.	1919.	1920.	1921.	Accumulated total.	Average for six years.	Average mile of road.	
$386,683,593	$386,683,593	$386,683,593	$386,683,593	$389,400,476	$389,400,476	$2,325,535,324	$387,589,221	$47,278	Entire Line
$30,934,687	$32,056,070	$31,901,396	$34,066,825	$31,074,158	$33,099,040	$193,132,176	$32,188,696	$29,219	Nebr.
52,550,300	52,666,305	52,666,305	52,666,305	51,011,462	51,011,462	312,572,139	52,095,357	47,289	"
38,784,364	39,596,400	39,596,400	39,596,400	38,862,167	38,940,048	235,375,779	39,229,296	35,610	"
35,884,237	36,000,242	38,668,359	41,877,833	39,952,489	39,602,028	231,985,188	38,664,198	35,097	"
19,643,526	21,228,929	21,383,603	23,317,021	21,884,307	24,571,170	132,028,556	22,004,759	19,975	"
27,841,219	30,470,667	31,630,718	35,342,880	33,293,741	33,683,141	192,262,366	32,043,728	29,088	"
$205,638,333	$212,018,613	$215,846,781	$226,867,264	$216,078,324	$220,906,889	$1,297,356,204	$216,226,034	$196,278	"
$34,273,056	$35,336,435	$35,974,463	$37,811,211	$36,013,054	$36,817,815	$216,226,034	$36,037,672	$32,713	"
1,102.05	1,102.05	1,102.05	1,102.05	1,102.05	1,100.80	6,609.80	1,101.63	.....	
$31,099	$32,064	$32,643	$34,310	$32,715	$33,446	.....	$32,713	.....	

Exhibit No. 6 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

	1920.	1921.	Accumulated total.	Average for two years.	Average per mile of road.	
1. Value of Entire Line as claimed in Ex Parte 74..	$451,433,733	$451,433,733	$902,867,466	$451,433,733	$53,728	
2. *Value of Entire Line as allowed by Interstate Commerce Commission in Ex Parte 74.....	$414,641,884	$414,641,884	$829,283,768	$414,641,884	$49,349	Entire Line.
Apportioned to State of Neb. on basis of—						
3. Railway Operating Revenues.....	$33,088,422	$35,244,560	$68,332,982	$34,166,491	$31,038	Nebraska.
4. Miles of line Operated.....	54,318,087	54,318,087	108,636,174	54,318,087	49,344	"
5. Miles of all track Operated.....	41,381,260	41,464,188	82,845,448	41,422,724	37,630	"
6. Transportation Train Miles.....	42,542,257	42,169,080	84,711,337	42,355,668	38,477	"
7. Traffic Units	23,302,874	26,163,903	49,466,777	24,733,389	22,468	"
8. Use of Property.....	35,451,881	35,866,523	71,318,404	35,659,202	32,394	"
9. Total	$230,084,781	$235,226,341	$465,311,122	$232,655,561	$211,351	"
10. Value State of Nebraska (Average of Six).....	$38,347,464	$39,204,390	$77,551,854	$38,775,927	$35,225	
11. Miles of Road Operated in Nebraska.....	1,100.80	1,100.80	2,201.60	1,100.80	.....	
12. Value per Mile of Road Operated.....	$34,836	$35,614	$.....	$35,225	.....	

Accounting Department B File U-80, 4/24/22.

*Value of all lines in Western District as claimed by Carriers was reduced 8.15% by the Interstate Commerce Commission, and the reduced value was taken as the basis upon which a reasonable return should be calculated.

Exhibit No. 7 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Recapitulation of Values of Railway Property, State of Nebraska.

Value of Railway property in Nebraska as determined from Exhibit No.	1916.	1917.	1918.	1919.	1920.
2. Par Value of Stocks & Bonds	$31,773,632	$33,771,944	$35,265,820	$37,144,222	$37,291,962
3. Market " " " " "	36,014,920	34,946,600	32,640,330	34,478,999	30,988,583
4. Net Railway Operating Income Capitalized at 6%	40,896,852	36,264,265	19,291,140	20,662,841	000,000
5. Annual Rental Paid by Government Capitalized at 6%	34,273,056	35,336,435	35,974,463	37,811,211	36,013,054
6. Amount allowed in Ex Parte 74	.....	.....	.....	.....	38,347,464
Total	$142,958,460	$140,319,244	$123,171,753	$130,097,273	$142,641,063
Average of above	$35,739,615	$35,079,811	$30,792,938	$32,524,318	$28,528,213
		Per Mile of Road.			
2. Par value of Stocks & Bonds	$28,831	$30,645	$32,000	$33,705	$33,877
3. Market " " " " "	32,680	31,711	29,618	31,286	28,151
4. Net Railway Operating Income Capitalized at 6%	37,110	32,906	17,505	18,749	000,000
5. Annual Rental paid by Government Capitalized at 6%	31,099	32,064	32,643	34,310	32,715
6. Amount allowed in Ex Parte 74	.....	.....	.....	.....	34,836
Total	$129,720	$127,326	$111,766	$118,050	$129,579
Average of above	$32,430	$31,832	$27,942	$29,513	$25,916

Accounting Department B File U-80, 4/26/22.

5 Year Average 1917 to 1921 Incl.

$691,352,271 divided by 22 items equals $31,425,103. $834,310,731 divid
$627,639 divided by 22 items equals $28,529. $757,359 divid

Exhibit No. 7 to Plaintiff's Exhibit 1.

Chicago and North Western Railway Company.

Recapitulation of Values of Railway Property, State of Nebraska.

determined from	1916.	1917.	1918.	1919.	1920.	1921.	Average for 6 years.
.....	$31,773,632	$33,771,944	$35,265,820	$37,144,222	$37,291,962	$38,393,266	$35,606,808
.....	36,014,920	34,946,600	32,640,330	34,478,999	30,988,583	30,226,384	33,215,970
italized at 6%	40,896,852	36,264,265	19,291,140	20,662,841	000,000	10,481,083	21,266,030
Capitalized at	34,273,056	35,336,435	35,974,463	37,811,211	36,013,054	36,817,815	36,037,672
.....	.....	.....	.....	.....	38,347,464	39,204,390	*38,775,927
.....	$142,958,460	$140,319,244	$123,171,753	$130,097,273	$142,641,063	$155,122,938	$164,902,407
.....	$35,739,615	$35,079,811	$30,792,938	$32,524,318	$28,528,213	$31,024,538	$32,088,874
			Per Mile of Road.				
.....	$28,831	$30,645	$32,000	$33,705	$33,877	$34,878	$32,322
.....	32,680	31,711	29,618	31,286	28,151	27,459	30,152
italized at 6%	37,110	32,906	17,505	18,749	000,000	9,521	19,304
Capitalized at	31,099	32,064	32,643	34,310	32,715	33,446	32,713
.....	.....	.....	.....	.....	34,836	35,614	*35,225
.....	$129,720	$127,326	$111,766	$118,050	$129,579	$140,918	
.....	$32,430	$31,832	$27,942	$29,513	$25,916	$28,184	$29,129

80, 4/26/22.

5 Year Average 1917 to 1921 Incl.

$691,352,271 divided by 22 items equals $31,425,103.
$627,639 divided by 22 items equals $28,529.

6 Year Average.

$834,310,731 divided by 26 items equals $32,088,874.
$757,359 divided by 26 items equals $29,129.

average of the entire line. Taking the year 1916 as an illustration, the operating revenue per mile in the State of Nebraska is 58% of the average of the entire line; the transportation train miles is 68% of the average of the entire line; the traffic units 37% of the average of the entire line, indicating that the productive power of this property, measured per mile of road, is relatively small.

Therefore, this affiant avers and states the fact to be that
88 the value per mile of railway of the Chicago and North Western System in the State of Nebraska is not in Excess of the sum of Twenty-nine Thousand One Hundred and Twenty-nine Dollars ($29,129.00), and the aggregate value of all lines of the Chicago and Northwestern Railway Company in the State of Nebraska is not in excess of the sum of thirty-two million, eighty-eight thousand, eight hundred and seventy-four dollars, ($32,088,874.00).

And further affiant sayeth not."

(Here follow Plaintiff's Exhibits Nos. 1-7, marked side folio pages 89-96.)

97 Plaintiff offered in evidence an affidavit of C. F. Balch, marked Plaintiff's Exhibit 1-A, Mr. Balch being the same affiant as the one named in Plaintiff's Exhibit 1, said affidavit relating to the value of plaintiff's property for the year 1921, but in which affidavit additional facts were set forth relating to the physical features of plaintiff's property, not included in said Plaintiff's Exhibit 1. A portion of said affidavit, Exhibit 1-A is as follows:

Plaintiff's Exhibit 1-a.

"I further depose and say that the foregoing conclusion is entirely consistent with a review of the characteristics of the Chicago and North Western Railway Company's property in the State of Nebraska as compared with its property in other states.

In other states, such as Illinois, Wisconsin, Iowa, and Minnesota, the company has its largest and most expensive terminals and shops. To illustrate, the Company has in the State of Illinois very large and expensive terminals, especially in the City of Chicago. It also has very extensive shops and yards in West Chicago, Proviso and East Clinton. In the terminal and industrial switching district of the City of Chicago alone the Company has over 370 miles of track devoted to terminal and industrial switching, and has located upon said track "and serves 432 large industries, some of which are the largest in the world, such, for instance, as the plants of the International Harvester Company, the American Can Company, the Griffin Wheel Company, etc. The Chicago and Northwestern Railway Company has the largest terminals in the city of Chicago and the Chicago industrial zone of any trunk railway

system entering the City of Chicago, and does in said city and the switching zone thereof the largest switching service of any trunk line entering the city.

This Company has also property in the other states which it serves outside of Nebraska of unusual and extraordinary value, of which there is nothing comparable within the State of Nebraska. This company has, by way of illustration, not only the extensive freight terminals and shops in Illinois above referred to but also has a very extensive and expensive passenger terminal in the City of Chicago which passenger terminal when it was completed in 1909 had cost to produce at that time $24,795,838.38. Said passenger terminal is located upon a tract of land consisting of 40 acres, including the land occupied by the immediate terminal and tracks approaching said station. That said 40-acre tract "is located immediately west of the Chicago river, and within a distance of four blocks of the most valuable property in the city being the loop district.

In addition to said 40 acres of land above described this company has 80 acres adjoining said tract, some of which extends along the north branch of the Chicago river, and some of which property extends to State Street, which is the principal retail street of the City of Chicago, and, in addition, some of this Company's property in this city extends east of State street and to and including the approaches to the Municipal Pier of the City of Chicago on Lake Michigan.

In addition, the General office Building of the Company is located at the corner of Jackson Boulevard and Franklin Street, in the City of Chicago, and in the Loop district. Said office building, when acquired, cost not less than $2,003,367.56.

In addition, this company has located in the City of Chicago what is known as its Calumet Elevator, situated on Calumet Lake in the southern portion of the city, the same being one of the largest terminal grain elevators in the world, "constructed at a cost of $3,671,106.21.

This Company has for years been engaged in elevating its tracks in the City of Chicago and beyond the border lines of the city. That the cost of this elevation work or the amount actually expended therefor was the sum of $8,271,524.00.

This Company has and does in the City of Chicago the largest steam railroad suburban business of any railroad in said city. It has a system of elevated tracks extending north from its Madison Street Terminal through Evanston, along the north shore of Lake Michigan, said system of elevated tracks consisting of two and in some places three tracks. All of it is three tracks as far north as the suburb of Wilmette. That said elevated tracks are devoted largely to suburban business and pass through a portion of the most densely populated part of the city of Chicago.

That in the City of Chicago this Company has two expensive bridges of the most modern type over the Chicago river. That the cost of the bridges and right of way for the tracks, outside the pas-

senger terminal proper, in the City of Chicago is not included in the foregoing figures, but would be an addition thereto.

101 "This Company also has the largest shops of its system devoted to the maintenance and repair of its equipment located in West Chicago, and it has its largest terminal yards for the classification of freight at Proviso, adjacent to the city of Chicago. That within the City of Chicago this Company has one of the largest freight terminals in the entire country, known as the Wood Street freight house and yard, and in addition thereto it has one of the largest freight terminals in the middle west located almost adjacent to the loop district, known as Grand Avenue station. In addition thereto it has within the City of Chicago a very large and extensive freight house and terminal which abuts upon State Street, which, as before stated, is the most important retail street in the City of Chicago. For instance, there is located upon State Street in the City of Chicago such great institutions as the retail store of Marshall Field & Company, the Boston Store, Mandel Brothers, the Fair, etc. That said freight house property of the North Western Railway Company is on both sides of State Street, just north of the Chicago river and within four blocks of the retail store of Marshall Field &

102 Company. In addition, this "Company has in Illinois large and extensive freight yards in East Clinton on the east bank of the Mississippi river, and also in the State of Illinois this Company has large industrial districts in such cities as Rockford, Geneva, Elgin, Dekalb, Dixon and Sterling. That this Company is also one of the owners of the Belt Line of railway extending around the City of Chicago; also one of the owners of what is known as the St. Charles Air Line, which penetrates the very heart of the industrial district in Chicago.

While the foregoing does not completely describe all of the extraordinary characteristics of the North Western System in the State of Illinois as distinguished from its property in the State of Nebraska, yet it illustrates the vast and extensive investments in terminals, both freight and passenger, elevated tracks, grain elevators, shops and industrial property in the State of Illinois, of which there is no comparison or comparable property in the State of Nebraska.

In addition, this Company owns extensive terminals and facilities in the City of Milwaukee, Wisconsin. In that city it has a grain elevator, the cost of which was $717,260.92; and it was "ele-

103 vated tracks in that city, the cost of which was $1,671,849. And at New Butler, immediately west of the city of Milwaukee, this company has large and extensive car repair shops; and on Lake Michigan in the States of Wisconsin and Michigan this company has constructed and owns ore docks and facilities for the handling of iron ore, the cost of which docks and facilities has been in excess of $5,000,000. In addition to this the Chicago and Northwestern Railway Company owns two large and expensive bridges that span the Mississippi river, one at Winona, Minnesota, and the other at Clinton, Iowa, and its owns a large bridge which spans the Missouri River at Pierre in the State of South Dakota and one across

the Missouri River at Blair, Nebraska. In addition, it owns one of the longest double-track bridges of any railway system in the country, known as the high bridge at Boone in the State of Iowa, which bridge and its approaches cost not less than $500,000. That said bridges across the Mississippi River at Winona, and Clinton and across the Missouri River at Pierre, South Dakota and Blair, Nebraska, cost not less than $4,213,000.

In addition, this company owns at Council Bluffs "In the
104 State of Iowa a terminal grain elevator the cost of which was $1,204,253.57.

That all of the above described property in the states of Illinois, Wisconsin, Minnesota, Iowa, Michigan and South Dakota, is included in the system value of the Chicago and Northwestern Railway Company as said system value is set out in the formula hereto attached for the purpose of arriving at and showing the value of the North Western Railway System as a whole, and that a portion of said value is spread out over the mileage of the company in the State of Nebraska in the formulas used in this affidavit and attached hereto for the purpose of arriving at the value in the State of Nebraska.

That this Company has no large terminals in the State of Nebraska, either freight or passenger; that it has no large depots in said State, and, indeed, no shops except shops largely devoted to the running repairs or, in other words, temporary repairs of locomotives and cars. Indeed there are only three of such shops located in Nebraska —one at Chadron, one at Norfolk and one at Fremont, and some slight repair work is done in the roundhouse at South Omaha.

105 "That outside of the freight terminals of this Company in the city of Omaha, which are small compared to those hereinbefore described, there are no freight terminals or passenger terminals in the State of Nebraska except the ordinary depots in the country towns through which this line passes, with the exception of small classification yards at Fremont and Lincoln. And this Company owns no terminal grain elevators in the State of Nebraska.

Affiant further states that the foregoing does not cover a complete description of the unusual and extraordinary values of this Company's property in other States as compared to Nebraska, but does illustrate such extraordinary and unusual values in other states as compared to the State of Nebraska. That all of said extraordinary and unusual values above referred to in said other states are included in the system value of the North Western Railway Company as used by affiant in this affidavit and in the exhibits hereto attached.

By way of further illustration of the extraordinary and unusual value of this Company's property in said other states than Nebraska, affiant further states that this Company has a double track system
106 of railroad extending from Council Bluffs on "the Missouri River in the State of Iowa to the City of Chicago, a distance of 487 miles. In addition, it has a four-track system of railroad between the City of Chicago and the City of Milwaukee a distance of 85 miles; a double track system from the city of Chicago to Elroy in the State of Wisconsin, a distance of 200 miles. That all of said double-track system of railway, as well as a great deal of the single-track

railway of said company outside of the State of Nebraska, is equipped with automatic electric block signal devices. That said double-track system consists mostly of heavy rail, said rail being of the weight of 100 pounds to the yard. That most of said double-track system is constructed of rock ballast, and that in the state of Nebraska there is no double-track system and a very small amount of rock ballast, and the weight of the heaviest rail in the State of Nebraska does not exceed 90 pounds to the yard, of which there is a limited amount. That a great majority of the rail in the state of Nebraska is of a weight not to exceed 72 pounds to the yard, and on a great deal of the mileage in Nebraska the weight of the rail is 60 pounds per yard.

Affiant further states that the equipment or "rolling stock,
107 such as cars and locomotives, operated through the State of Nebraska is considerably less in value per mile of line than the average of the entire system; that the locomotives used in Nebraska are of lighter types and of earlier design than those in the States of Iowa, Wisconsin, Michigan and Illinois. That this is so because the traffic density in the State of Nebraska is considerably less than that in the States named, and, indeed, less than one-half the average per mile of road of the entire system. That because of the lighter rail, the lack of ballast, light track, and bridge construction generally in the state of Nebraska, the same forbids the use of the heavier types of locomotives, such as the types that are used in the territory of denser traffic in the states of Iowa, Wisconsin, Michigan and Illinois.

That the Northwestern system consisted in 1921 of a total of 8,402. That of this amount there was in the State of Nebraska 1,100 miles, whereas in the State of Iowa there was 1,632 miles, in Illinois 824 miles; in Wisconsin 2,160 miles, and in Michigan 511 miles. That is to say, in the states of the extraordinary and unusual values
108 as above "described, consisting of the States of Iowa, Illinois, Wisconsin and Michigan, there was in the year 1921, a total of 5,127 miles out of the total system mileage of 8,298 as against 1,100 miles of lighter and less valuable trackage in the State of Nebraska.

Affiant further states that he is one of the officers of the Chicago and North Western Railway Company having charge and supervision of the books and the accounting system of said Company; that he knows that said books and said accounting system are kept strictly and accurately and in accordance with the rules of accounting and classification prescribed by the Interstate Commerce Commission. That all of the figures, data and information as hereinbefore set forth in this affidavit have been compiled under the direct and immediate supervision of affiant. That he has for several years past made a special study and kept himself thoroughly advised as to the data and the records as shown by the official books of the said Railway Company kept and maintained under the supervision and in accordance with the rules prescribed by the Interstate Commerce Commission. That said books and the figures and data in
109 this affidavit contained are, as stated, "true and accurate, as shown by the books of said company. That he has made a

study of and is acquainted with the most generally accepted metho as used by governmental authorities and by students acquainted wit the subject, for the purpose of arriving at and distributing the sai system values of interstate railway companies to the various State through which the Northwestern Railway Company operates, an that the system value of the Chicago and North Western Railwa Company, properly and fairly and liberally allocated to the State o Nebraska in the method as hereinbefore defined and as set forth in the exhibits attached to this affidavit, does not exceed the sum o thirty million, four hundred fifty-one thousand, four hundred and ninety-five dollars ($30,451,495)."

(Here follow tables marked side folio pages 110-116.)

117 Plaintiff offered in evidence the affidavit of T. A. Polle marked Plaintiffs' Joint Exhibit 2, which is as follows:

Plaintiff's Joint Exhibit 2.

"1922 Tax Suit."

In the District Court of the United States for the District of Nebrask Omaha Division.

CHICAGO & NORTH WESTERN RAILWAY COMPANY, Plaintiff,

vs.

W. H. OSBORNE, JR., AS STATE TAX COMMISSIONER OF THE STA OF NEBRASKA, et al., Defendants.

Affidavit of T. A. Polleys Concerning the True Value of Nebrask Real Estate in the Year 1922 and the Relation of the 1922 A sessment Thereto.

STATE OF ILLINOIS,
County of Cook, ss:

(1) T. A. Polleys, being first duly sworn, on oath says that he now and ever since December 1, 1915, has been the Tax Commi sioner of the Chicago and North Western Railway Company, th plaintiff above named; that since July 1, 1903 continuously to th present time, he has also been the Tax Commissioner of the Chicag St. Paul, Minneapolis and Omaha Railway Company; that, in h capacity as Tax Commissioner as aforesaid, he has, for nearl
118 twenty years last past, made a thorough study of land valu in the State of Iowa, Nebraska, South Dakota and Wisconsi and, (during the past seven years) also in the States of Illinois an Wyoming; that his research in respect to land values in the seven states mentioned has been based, in large part, upon the so-calle

110 Exhibits Compiled

111 Ex

Chica

Value of entire line as represented by Exhibit No. —	1916.
2. Par Value of Stocks and Bonds	$358,484,000
3. Market " " " " "	406,336,070
4. Annual Rental Paid by Government Capitalized at 6%	.....
5. Amount Allowed in Ex Parte 74	.....
Total	$764,820,070
Average of Above	$382,410,035
Miles of Road Operated	8,107.82
2. Par Value of Stocks and Bonds	$44,215
3. Market " " " " "	50,116
4. Annual Rental Capitalized at 6%	.....
5. Amount allowed in Ex Parte 74	.....
Total	$94,331
Average of above	$47,166

Accounting Depar

*Three Year Average.
**One Year Average.

Exhibits Compiled by C. F. Balch, Nebraska Tax Case.—November, 1922.

Exhibit No. 1 to Plaintiff's Exhibit 1-A.

Chicago and North Western Railway Company.

Value of Road Operated.

Entire Line.

Exhibit No. —	1916.	1917.	1918.	1919.	1920.	Accumulated total.	Average for five years.
.....	$358,484,000	$369,563,500	$379,066,500	$379,862,500	$403,229,000	$1,890,205,500	$378,041,100
.....	406,336,070	382,417,649	350,845,542	352,606,093	335,072,088	1,827,277,442	365,455,488
ment Capitalized							
.....	.....	.....	386,683,593	386,683,593	389,400,476	1,162,767,662	*387,589,221
.....	.....	.....	.....	.....	414,641,884	414,641,884	**414,641,884
.....	$764,820,070	$751,981,149	$1,116,595,635	$1,119,152,186	$1,542,343,448	$5,294,892,488	.....
.....	$382,410,035	$375,990,575	$372,198,545	$373,050,729	$385,585,862	.....	$378,206,606

Value per Mile of Road Operated.

.....	8,107.82	8,094.95	8,090.45	8,090.45	8,402.58	.....	.....
.....	$44,215	$45,654	$46,854	$46,952	$47,900	$231,665	$46,345
.....	50,116	47,242	43,365	43,583	39,879	224,185	44,802
.....	.....	.....	47,795	47,795	46,344	141,934	*47,299
.....	.....	.....	.....	.....	49,349	49,349	**49,349
.....	$94,331	$92,896	$138,014	$138,330	$183,562	$647,133	.....
.....	$47,166	$46,448	$46,005	$46,110	$45,891	.....	$46,224

Accounting Department B File U-80, Oct. 23, 1922.

Five Year Average, 1916 to 1920, Incl.
$647,133 divided by 14 items equals..... $46,224
$5,294,892,488 divided by 14 items equals $378,206,606

Exhibit No. 2 to Plaintiff's Exhibit 1-A.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

	1916.	1917.	1918.	1919.	1920.	Accum
1. Value of Entire Line as represented by Par Value of Stocks and Bonds.....	$358,484,000	$369,563,500	$379,066,500	$379,862,500	$403,229,000	$1,89
Apportioned to State of Nebraska on basis of:						
2. Railway Operating Revenues	$23,678,720	$30,636,814	$31,272,986	$33,465,886	$32,177,674	$15
3. Transportation Train Miles	33,267,315	34,406,362	37,906,650	41,139,109	41,371,295	18
4. Traffic Units	18,210,987	20,289,036	20,962,377	22,905,709	22,661,470	10
5. Use of Property	25,810,848	29,121,604	31,007,640	34,719,433	34,476,080	15
6. Total	$105,967,870	$114,453,816	$121,149,653	$132,230,137	$130,686,519	$60
7. Value State of Nebr. (Avg. of Four)....	$26,491,968	$28,613,454	$30,287,413	$33,057,534	$32,671,630	$15
8. Miles of Read Operated in Nebraska...	1,102.05	1,102.05	1,102.05	1,102.05	1,100.80	
9. Value per Mile of Road Operated.....	$24,039	$25,964	$27,483	$29,996	$29,680	
Ratios allotted to State of Nebr.:						
10. Railway Operating Revenues	8.00%	8.29%	8.25%	8.81%	7.98%	
11. Transportation Train Miles	9.28	9.31	10.00	10.83	10.26	
12. Traffic Units	5.08	5.49	5.53	6.03	5.62	
13. Use of Property	7.20	7.88	8.18	9.14	8.55	

Accounting Department B File U-80, Oct. 23, 1922.

Exhibit No. 2 to Plaintiff's Exhibit 1-A.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

1916.	1917.	1918.	1919.	1920.	Accumulated total.	Average for five years.	Average per mile of road.	
358,484,000	$369,563,500	$379,066,500	$379,862,500	$403,229,000	$1,890,205,500	$378,041,100	$46,345	Entire Line
$23,678,720	$30,636,814	$31,272,986	$33,465,886	$32,177,674	$156,232,080	$31,246,416	$28,360	Nebr.
33,267,315	34,406,362	37,906,650	41,139,109	41,371,295	188,090,731	37,618,146	34,142	"
18,210,987	20,289,036	20,962,377	22,905,709	22,661,470	105,029,579	21,005,916	19,065	"
25,810,848	29,121,604	31,007,640	34,719,433	34,476,080	155,135,605	31,027,121	28,160	"
105,967,870	$114,453,816	$121,149,653	$132,230,137	$130,686,519	$604,487,995	$120,897,599	109,727	"
$26,491,968	$28,613,454	$30,287,413	$33,057,534	$32,671,630	$151,121,999	$30,224,400	$27,432	"
1,102.05	1,102.05	1,102.05	1,102.05	1,100.80	5,509.00	1,101.80	.....	
$24,039	$25,964	$27,483	$29,996	$29,680	.....	$27,432	.....	
8.00%	8.29%	8.25%	8.81%	7.98%				
9.28	9.31	10.00	10.83	10.26				
5.08	5.49	5.53	6.03	5.62				
7.20	7.88	8.18	9.14	8.55				

3, 1922.

Exhibit No. 3 to Plaintiff's Exhibit 1-A.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

	1916.	1917.	1918.	1919.	1920.	Accum
1. Value of Entire Line as represented by Market Value of Stocks and Bonds....	$406,336,070	$382,417,649	$350,845,542	$352,606,093	$335,072,088	$1,8
Apportioned to State of Nebraska on basis of						
2. Railway Operating Revenues	$32,506,886	$31,702,423	$28,944,757	$31,064,597	$26,738,752	$1
3. Transportation Train Miles	37,707,987	35,603,083	35,084,554	38,187,240	34,378,396	1
4. Traffic Units	20,641,872	20,994,729	19,401,758	21,262,147	18,831,051	1
5. Use of Property	29,256,197	30,134,511	28,699,165	32,228,197	28,648,663	1
6. Total	$120,112,942	$118,434,746	$112,130,234	$122,742,181	$108,596,862	$5
7. Value State of Neb. (Average of Four).	$30,023,235	$29,608,686	$28,032,559	$30,685,545	$27,149,216	$1
8. Miles of Road Operated in Nebraska...	1,102.05	1,102.05	1,102.05	1,102.05	1,100.80	
9. Value per Mile of Road Operated.....	$27,248	$26,867	$25,437	$27,844	$24,663	

Accounting Department B File U-80, Oct. 23, 1922.

Exhibit No. 3 to Plaintiff's Exhibit 1-A.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

1916.	1917.	1918.	1919.	1920.	Accumulated total.	Average for five years.	Average per mile of road.	
3,336,070	$382,417,649	$350,845,542	$352,606,093	$335,072,088	$1,827,277,442	$365,455,488	$44,802	Entire Line
2,506,886	$31,702,423	$28,944,757	$31,064,597	$26,738,752	$150,957,415	$30,191,483	$27,402	Nebr.
7,707,987	35,603,083	35,084,554	38,187,240	34,378,396	180,961,260	36,192,252	32,848	"
9,641,872	20,994,729	19,401,758	21,262,147	18,831,051	101,131,557	20,226,311	18,358	"
9,256,197	30,134,511	28,699,165	32,228,197	28,648,663	148,966,733	29,793,347	27,040	"
9,112,942	$118,434,746	$112,130,234	$122,742,181	$108,596,862	$582,016,965	$116,403,393	$105,648	
3,023,235	$29,608,686	$28,032,559	$30,685,545	$27,149,216	$145,504,241	$29,100,848	26,412	
1,102.05	1,102.05	1,102.05	1,102.05	1,100.80	5,509.00	1,101.80	.....	
$27,248	$26,867	$25,437	$27,844	$24,663	.....	$26,412	.....	

922.

Exhibit No. 4 to Plaintiff's Exhibit 1-A.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

	1918.	1919.	1920.	Accumulated total.	Aver... three ...
1. Value of Entire Line as calculated by Annual Rental Paid by Government Capitalized at 6%.	$386,683,593	$386,683,593	$389,400,476	$1,162,767,662	$387,5...
Apportioned to State of Nebraska on basis of					
2. Railway Operating Revenues	$31,901,396	$34,066,825	$31,074,158	$97,042,379	$32,3...
3. Transportation Train Miles	38,668,359	41,877,833	39,952,489	120,498,681	40,1...
4. Traffic Units	21,383,603	23,317,021	21,884,307	66,584,931	22,1...
5. Use of Property	31,630,718	35,342,880	33,293,741	100,267,339	33,4...
6. Total	$123,584,076	$134,604,559	$126,204,695	$384,393,330	$128,1...
7. Value State of Nebraska (Average of Four)	$30,896,019	$33,651,140	$31,551,174	$96,098,333	$32,0...
8. Miles of Road Operated in Nebraska	1,102.05	1,102.05	1,100.80	3,304.90	1,1...
9. Value per Mile of Road Operated	$28,035	$30,535	$28,662	.....	$...

Accounting Department.
B File U-80, Oct. 24, 1922.

Exhibit No. 4 to Plaintiff's Exhibit 1-A.

Chicago and North Western Railway Company.

Assignment of Property Value to State of Nebraska.

	1918.	1919.	1920.	Accumulated total.	Average for three years.	Average per mile of road.	
d by Annual talized at 6%.	$386,683,593	$386,683,593	$389,400,476	$1,162,767,662	$387,589,221	$47,299	Entire Line.
on basis of							
.....	$31,901,396	$34,066,825	$31,074,158	$97,042,379	$32,347,460	$29,363	Nebraska.
.....	38,668,359	41,877,833	39,952,489	120,498,681	40,166,227	36,461	"
.....	21,383,603	23,317,021	21,884,307	66,584,931	22,194,977	20,147	"
.....	31,630,718	35,342,880	33,293,741	100,267,339	33,422,446	30,339	"
.....	$123,584,076	$134,604,559	$126,204,695	$384,393,330	$128,131,110	$116,310	"
Four).....	$30,896,019	$33,651,140	$31,551,174	$96,098,333	$32,032,778	$29,078	
.....	1,102.05	1,102.05	1,100.80	3,304.90	1,101.63		
.....	$28,035	$30,535	$28,662	.....	$29,078		

Exhibit No. 5 to Plaintiff's Exhibit 1-A.

Chicago and North Western Railway Company

Assignment of Property Value to State of Nebraska

	1920.	Average per mile of road.	
1. *Value of Entire line as allowed by Interstate Commerce Commission in Ex Parte 74	$414,641,884	$49,349	Entire Line
Apportioned to State of Nebraska on basis of			
2. Railway Operating Revenues	$33,088,422	$30,059	Nebraska
3. Transportation Train Miles	42,542,257	38,647	"
4. Traffic Units	23,302,874	21,169	"
5. Use of Property	35,451,881	32,205	"
6. Total	$134,385,434	$122,080	
7. Value State of Nebraska (Average of Four)	$33,596,358	$30,520	
8. Miles of Road Operated in Nebraska	1,100.80		
9. Value per Mile of Road Operated	$30,520		

Accounting Department B File U-80, Oct. 23, 1922.

*Value of all lines in Western District as claimed by Carriers was reduced 8.15% by the Interstate Commerce Commission, and the reduced value was taken as the basis upon which a reasonable return should be calculated.

Exhibit No. 6 to Plaintiff's Exhibit 1-A.

Chicago and North Western Railway Company.

Recapitulation of Values of Railway Property.

State of Nebraska.

Value of railway property in Nebraska as determined from Exhibit No. —	1916.	1917.	1918.	1919.	192
2. Par Value of Stocks and Bonds	$26,491,968	$28,613,454	$30,287,413	$33,057,534	$32,671
3. Market " " " " "	30,028,235	29,608,686	28,032,559	30,685,545	27,14
4. Annual Rental Paid by Government Capitalized at 6%	.....	.....	30,896,019	33,651,140	31,55
5. Amount allowed in Ex Parte 74	.....	.....	.....	.....	33,59
Total	$56,520,203	$58,222,140	$89,215,991	$97,394,219	$124,96
Average of Above	$28,260,102	$29,111,070	$29,738,664	$32,464,740	$31,24
		Per Mile of Road			
Miles of Road Operated in Nebraska	1,102.05	1,102.05	1,102.05	1,102.05	1,10
2. Par Value of Stocks and Bonds	$24,039	$25,964	$27,483	$29,996	$29
3. Market " " " " "	27,248	26,867	25,437	27,844	24
4. Annual Rental Paid by Government Capitalized at 6%	.....	.....	28,035	30,535	28
5. Amount allowed in Ex Parte 74	.....	.....	.....	.....	30
Total	$51,287	$52,831	$80,955	$88,375	$113
Average of Above	$25,644	$26,416	$26,985	$29,458	$28

Accounting Department B File U-80, Oct. 24, 1922.

$426,320,931 divided by 14 items equals $30,451,495
$386,973, divided by 14 items equals.....$27,641

*Three Year Average.
**One Year Average.

Exhibit No. 6 to Plaintiff's Exhibit 1-A.

Chicago and North Western Railway Company.

Recapitulation of Values of Railway Property.

State of Nebraska.

n Nebraska as determined from 6. —	1916.	1917.	1918.	1919.	1920.	Average for five years.
and Bonds	$26,491,968	$28,613,454	$30,287,413	$33,057,534	$32,671,630	$30,224,400
" "	30,028,235	29,608,686	28,032,559	30,685,545	27,149,216	29,100,848
Government Capitalized at 6%	.....	.....	30,896,019	33,651,140	31,551,174	*32,032,778
Parte 74	.....	.....	.....	.....	33,596,358	**33,596,358
.....	$56,520,203	$58,222,140	$89,215,991	$97,394,219	$124,968,378	.....
.....	$28,260,102	$29,111,070	$29,738,664	$32,464,740	$31,242,095	$30,451,495
			Per Mile of Road			
Nebraska	1,102.05	1,102.05	1,102.05	1,102.05	1,100.80	1,101.80
and Bonds	$24,039	$25,964	$27,483	$29,996	$29,680	$27,432
" "	27,248	26,867	25,437	27,844	24,663	26,412
Government Capitalized at 6%	.....	.....	28,035	30,535	28,662	*29,078
Parte 74	.....	.....	.....	.....	30,520	**30,520
.....	$51,287	$52,831	$80,955	$88,375	$113,525	.....
.....	$25,644	$26,416	$26,985	$29,458	$28,381	$27,641

$426,320,931 divided by 14 items equals $30,451,495

3 File U-80, Oct. 24, 1922. $386,973, divided by 14 items equals.....$27,641

assessment ratio method which has been for many years employed by the tax commissions of Wisconsin and Minnesota for the ascertainment of the approximate true value of real estate; that the said assessment ratio method has also been used by the State Board of Equalization of the State of Nebraska, at times, in the equalization of real estate assessments, particularly in connection with the real estate equalization made in and for the year 1920; that, in the prosecution of the real estate studies above mentioned within the State of Nebraska, affiant has personally gathered from the public records many thousand transfers of Nebraska real estate and has personally posted against each such transfer the assessed value of the real estate in question under the assessment last preceding the date of transfer; that he has examined and studied a still larger number of Nebraska real estate transfers and assessments gathered by other representatives of the tax departments of the two companies above mentioned, under the personal direction and supervision of affiant; that the Nebraska real estate transfers gathered and studied as above mentioned cover both rural and urban real estate; that by reason
119 of his said studies above referred to, affiant verily believes he is well advised as to the true value of Nebraska real estate, particularly within the Nebraska counties crossed by the lines of the plaintiff company and the Chicago, St. Paul, Minneapolis and Omaha Railway Company, in and for the year 1922 and continuously for a considerable number of years prior thereto.

(2) Affiant further states that, Section 5662 of the Compiled Statutes of Nebraska for 1922, provides as follows:

"That hereafter all deeds, mortgages and conveyances of real estate in this State shall duly and correctly state in the body of such instrument the actual consideration paid for such transfer; provided, however, that where the actual consideration does not exceed one hundred dollars, said sum or any less sum may be stated as the consideration in such instrument."

That in the State of Nebraska by reason of the foregoing statutory provision very few deeds of acre property going upon the public records fail to set forth the consideration for the transfer of the property; that there is very close correspondence and agreement between the stated consideration in recorded deeds of Nebraska acre property and the consideration indicated by the revenue stamps affixed to said deeds and the prior encumbrances recited therein.

(3) Affiant further states that Exhibits A, B and C attached hereto and made a part hereof are tables setting forth, county
120 by county, the results of a very recently completed study of the sales of acre property in the 37 Nebraska counties crossed by the lines of the plaintiff company and those of the C. St. P. M. & O. Ry. Co., during the period January 1921 to November 1922 inclusive, except that in Douglas County the period closes with October 31st 1922; that Exhibit A, (Table #969) covers 4,131 such acre transfers, executed (with the exception of a very few transfers), within the period January 1921 to November 1922 inclusive, covers 802,347 acres, sold at an average price of $85.00 per acre and as-

sessed in 1922 at $45.74 per acre or, at 53.82% of the average stated sale price just mentioned; that Exhibit B (Table #970) covers 2,575 transfers of acre property executed (with the exception of a very few transfers) within the period January 1921 to December 1921 inclusive, and covers 493,792 acres, sold at the average price of $92.05 per acre and assessed in 1922 at $46.51 per acre, or at 50.53% of the average stated sale price just mentioned; that Exhibit C (Table #971) covers 1,556 transfers of acre property all executed within the period January to November 1922 inclusive and covers 208,555 acres sold at an average price of $73.71 per acre and assessed in 1922 at $44.50 per acre or at 60.37% of the average stated sale price just mentioned; that the 1922 average assessed value per acre for the entire group of 37 Nebraska counties covered by said three tables is $49.23 per acre; that the average estimated
121 true value per acre of the entire group of 37 counties, as worked out by the complete application of the so-called assessment ratio process, is $91.40 per acre as shown by Exhibit A, table #969, for the period January 1921 to November 1922 inclusive; that the estimated true value per acre of the entire group of 37 counties in and for the calendar year 1921 arrived at by the application of the complete assessment ratio process, as shown by Exhibit B, table #970, was $97.46; and that the average estimated true value per acre of said entire group of 37 counties, as arrived at by the application of the complete assessment ratio process, as shown by Exhibit C, table #971, for the period January to November 1922 inclusive, has dropped to $81.55.

(4) Affiant further states that Exhibit D (being Table #750 hereto attached and made a part hereto correctly sets forth the average value per acre of all farm land, including buildings, fixed by the 1920 United States Census for the respective counties of Nebraska, and also shows in column 3 the average assessed value per acre of each Nebraska county in 1921, and in column 4 sets forth the ratio of the said 1921 assessed value to the 1920 true value as fixed by the United States Census; that the 1922 average assessed value per acre for the respective counties of the State of Nebraska are shown in pen figures at the right and left hand margins of said Exhibit D (Table #750); that the 1921 average assessed
122 value per acre for the 37 C. & N. W. and C. St. P. M. & O. counties, as shown at the foot of column 3 of said Exhibit D, was $49.95 as against an average of $49.23 under the 1922 real estate assessment as shown at the foot of column 9 in Exhibits A, B and C; that the average assessed value per acre, including buildings, for the entire State of Nebraska for the year 1921 as shown by said Exhibit D, was $39.19, and that the average assessed value per acre, including buildings, for the entire State for the year 1922 will not exceed approximately $39.00; that the average 1922 assessed value per acre of all farm lands in the State of Nebraska, including buildings, being approximately $39.00 per acre, does not exceed approximately 45% of the average value per acre fixed by the 1920 United States Census for all farm lands in the State, including buildings, namely, $87.81.

(5) Affiant further states that the Nebraska Crop Reporter issued under date of March 1st, 1922, by the United States Department of Agriculture, Bureau of Market and Crop Estimates, in cooperation with State of Nebraska, Department of Agriculture, Bureau of Markets and Marketing, contains upon the second page thereof, a paragraph reading as follows:

"Farm land with improvements averaged $85 per acre as compared to the 1920 Census valuation $87.91 per acre. Land alone has an average value of $76 per acre compared to the Census value of $78.87. These values may seem low, but consideration must be given to the fact that these are average values for the State.
123 More than 25% of the State lies within the sandhill section which the Census values at approximately $20 per acre. The average value of poor plow land is $75 per acre; good plow land, $125 per acre; all plow land $105 per acre."

(6) Affiant further states that Exhibits E and F (being Tables #805 and #806) set forth, county by county, the results of a special investigation made under the supervision of affiant concerning first mortgage farm loans made within the 37 Nebraska counties crossed by the lines of the C. & N. W. and the C. St. P. M. & O., during the period September 1920 to March 1922 inclusive, and the relation borne by the 1921 assessment to the amount of the first mortgage loan with reference to each mortgaged parcel included in said tables; that the general captions and the column captions in said exhibits E and F (Tables #805 and #806) sufficiently describe the methods employed in arriving at the results set forth in said exhibits as to the respective counties therein mentioned; that exhibit E (table #805) deals with all of the selected mortgages in the 37 counties (3604) whereas exhibit F (table # 806) is based upon 603 first farm mortgages made or assigned to insurance companies; that, as shown at the foot of column 11, in each of said exhibits E and F, the average amount of first mortgage loan per acre for the entire number of counties treated as a single group, exceeded 75% of the 1921 assessed value of the particular lands thus mentioned.

(7) Affiant further states that the total of the grand
124 assessment roll of the State of Nebraska, as equalized by the State Board of Equalization for the year 1922, after the deduction therefrom of the railroad assessment, is approximately $2,875,000,000 of which approximately 60% is represented by the assessment of acre property and approximately 15 to 17% is represented by the assessment of town lots.

(8) Affiant further states that, as indicated by a further study of over 9,000 very recent transfers of urban real estate in the 37 Nebraska counties crossed by the lines of the C. & N. W. and the C. St. P. M. & O. Railway Companies, the 1921 assessed value of the said urban real estate thus transferred represented only 56.34% of the sale price of the said real estate; that the ratio of the 1921 assessment to the estimated 1922 true value of urban real estate just stated (56.34%) does not differ substantially from the

ratio of the 1921 assessment of acre property, including buildings, to the 1922 estimated true value of all acre property in said 37 counties, treated as a unit, namely 52.98%.

(9) Affiant further states that the land sales referred to and summarized in Exhibits A, B and C (Tables #969, 970 and 971) are widely distributed throughout the respective counties, and, generally speaking, fairly represent all general localities and all qualities of soil and variations in value within the said several counties;
125 that, on the whole, the average intrinsic quality of the lands covered by the sales summarized in said Exhibits A, B and C, is somewhat below the average intrinsic quality of the entire body of lands in said group of 37 counties considered as a unit, as is shown by a comparison of the figures at the foot of columns 7 and 9 in said Exhibits A, B and C; that, under the comparison just suggested it appears from Exhibit B, that the nearly 500,000 acres of land sold during the calendar year 1921, were assessed at only $46.51 per acre in 1922, whereas, the entire body of assessable lands in said 37 counties considered as a group was assessed at an average of $49.23 per acre; in the calendar year 1922, as shown by Exhibit C, the somewhat over 300,000 acres sold, were assessed at only $44.50 per acre in 1922, whereas the entire body of lands in the 37 counties, considered as a group, were assessed at $49.22 per acre.

Further affiant saith not.

(Signed) T. A. Polleys.

Subscribed and sworn to before me this twenty-eight- day of November, A. D. 1922.

(Signed) Margaret C. Carmody, Notary Public."

(End of Plaintiff's Joint Exhibit 2.)
(But see exhibits attached next page.)

(Here follow Exhibits "A," "B," and "C," marked side folio pages 126, 127, and 128.)

Exhibit "A" to Plaintiff's Joint Exhibit 2.

Recapitulation of Land Sales from January 1, 1921, to November, 1922, and the 1922 Equalized Assessment Against Same in 37 Nebraska Counties Crossed by the C. & N. W. and C., St. P., M. & O. Railways.

County.	Transfers.	Acres, sold.	Consideration.		1922 equalized assessment.		Ratio.	1922 av'g equal. ass'm't per acre, entire county.	Est'd true value per acre, entire county.
			Total.	Per acre.	Total.	Per acre.			
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
Adams	76	11,060	$1,181,590	$106.83	$748,840	$67.70	63.37%	$71.83	$113.35
Antelope	167	27,963	2,389,613	85.43	1,285,506	45.97	53.81%	48.78	90.65
Boone	117	21,128	2,830,496	133.97	1,456,855	68.95	51.46%	71.10	138.17
Boyd	126	24,696	1,561,879	63.24	944,508	38.25	60.48%	43.32	71.63
Brown	136	56,513	909,859	16.10	422,630	7.47	46.45%	8.40	18.08
Burt	88	14,269	2,673,027	187.33	1,459,894	102.31	54.62%	117.47	215.07
Butler	83	10,361	1,771,360	170.96	875,838	84.53	49.45%	96.69	195.53
Cedar	120	18,398	2,682,565	145.81	1,646,652	89.50	61.38%	94.18	153.44
Cherry	202	101,800	1,091,081	10.71	469,819	4.61	43.04%	4.93	11.46
Clay	103	14,023	1,774,015	126.51	1,010,975	72.09	56.98%	77.74	136.44
Colfax	59	6,725	1,344,596	199.94	771,245	114.68	57.35%	112.77	196.64
Cuming	92	10,744	1,937,519	180.33	1,260,705	117.34	65.07%	120.33	184.92
Dakota	36	4,843	719,082	148.48	407,370	84.12	56.65%	96.51	170.37
Dawes	46	17,046	457,100	26.82	193,410	11.35	41.95%	10.31	24.58
Dixon	88	13,871	1,859,380	134.05	981,850	70.78	52.80%	80.27	152.03
Dodge	70	6,968	1,618,120	232.22	797,310	114.42	49.27%	118.73	240.98
Douglas	69	4,752	1,291,002	271.68	686,337	144.43	53.16%	144.64	272.08
Fillmore	114	15,727	1,985,782	126.27	1,270,280	80.77	63.97%	85.31	133.36
Hamilton	101	10,477	1,537,375	146.74	842,576	80.42	54.81%	86.73	158.24
Holt	288	86,105	3,391,151	39.38	1,401,585	16.28	41.34%	15.32	37.06
Knox	168	24,657	2,245,795	91.08	1,235,148	49.22	54.04%	50.65	93.73
Lancaster	173	20,808	3,476,322	167.07	2,070,675	99.51	59.56%	101.22	169.95
Madison	112	15,934	2,536,245	159.17	1,264,408	79.35	49.85%	86.23	172.98
Nuckolls	99	14,393	1,574,934	109.42	802,055	55.73	50.93%	59.52	116.87
Pierce	97	13,923	1,763,723	126.68	863,270	62.00	48.94%	70.75	144.56
Platte	108	13,378	2,160,310	161.48	1,208,757	90.35	55.95%	98.45	175.96
Rock	74	39,623	645,558	16.29	248,235	6.26	38.43%	8.22	21.39
Saunders	118	14,646	2,723,594	185.96	1,427,342	97.46	52.41%	104.07	198.57
Seward	113	14,040	2,170,783	154.61	1,133,753	80.75	52.23%	94.30	180.55
Sheridan	104	37,049	870,803	23.50	337,069	9.10	38.72%	7.15	18.47
Sioux	83	31,810	679,353	21.36	319,542	10.05	47.05%	6.42	13.65
Stanton	103	17,500	2,570,572	146.89	1,492,365	85.28	58.06%	92.84	159.90
Thayer	159	22,436	2,470,830	110.13	1,227,425	54.71	49.66%	62.57	126.00
Thurston	157	11,479	1,488,516	129.67	906,900	79.01	60.93%	91.52	150.21
Washington	63	6,084	1,099,684	180.75	611,576	100.52	55.61%	123.83	222.68
Wayne	68	10,266	2,000,331	194.85	1,063,996	103.64	53.19%	105.85	199.01
York	151	16,852	2,714,749	161.09	1,549,972	91.97	57.09%	92.17	161.45
37 Counties	4,131	802,347	68,198,694	85.00	36,696,673	45.74	53.82%	49.23	91.48

Compiled by Tax Department of C. & N. W. Ry. Co., Chicago, Ill. November 20, 1922. #969.

Exhibit "B" to Plaintiff's Joint Exhibit 2.

Recapitulation of Land Sales from January to December, 1921, Inclusive, and the 1922 Equalized Assessment Against Same in 37 Nebraska Counties Crossed by the C. & N. W. and C., St. P., M. & O. Railways.

County.	Transfers.	Acres, solid.	Consideration.		1922 equalized assessment.		Ratio.	1922 av'g equal. ass'mt per acre, entire county.	Est'd true value per acre, entire county.
			Total.	Per acre.	Total.	Per acre.			
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
Adams	48	6,622	$727,165	$109.81	$426,711	$64.44	58.69%	$71.83	$122.39
Antelope	113	19,592	1,684,965	86.24	898,366	45.85	53.17%	48.78	91.74
Boone	76	12,957	1,894,867	146.24	875,955	67.60	46.26%	71.10	153.70
Boyd	76	14,820	1,004,594	67.79	574,905	38.79	57.22%	43.32	75.71
Brown	81	30,055	503,649	16.76	236,730	7.88	47.00%	8.40	17.87
Burt	59	9,958	1,900,326	190.83	966,604	97.07	50.87%	117.47	230.93
Butler	62	7,366	1,387,736	188.40	653,793	88.76	47.12%	96.69	205.20
Cedar	61	11,594	1,810,339	156.14	1,029,870	88.83	56.88%	94.18	165.58
Cherry	134	70,557	800,989	11.35	312,612	4.43	39.04%	4.93	12.63
Clay	68	9,533	1,238,233	129.89	679,995	71.33	54.92%	77.74	141.55
Colfax	37	4,055	962,796	237.43	495,480	122.19	51.46%	112.77	219.15
Cuming	52	5,559	1,101,623	198.17	662,150	119.11	60.10%	120.33	200.22
Dakota	23	3,273	533,135	162.89	273,275	83.49	51.26%	96.51	188.28
Dawes	26	8,447	210,610	24.93	78,190	9.26	37.15%	10.31	27.76
Dixon	46	7,150	980,578	137.14	495,100	69.24	50.49%	80.27	158.98
Dodge	52	5,429	1,323,270	243.74	620,180	114.23	46.87%	118.73	253.32
Douglas	40	3,164	883,474	279.23	444,090	140.36	50.27%	144.64	287.73
Fillmore	67	9,498	1,298,196	136.68	769,440	81.01	59.27%	85.31	143.94
Hamilton	51	5,107	810,680	158.74	415,410	81.34	51.24%	86.73	169.27
Holt	189	47,845	2,144,387	44.82	767,170	16.03	35.76%	15.32	42.84
Knox	94	14,198	1,323,156	93.19	690,542	48.64	52.19%	50.65	97.05
Lancaster	116	14,470	2,507,147	173.26	1,473,200	101.81	58.76%	101.22	172.26
Madison	72	10,709	1,860,777	173.76	871,631	81.39	46.84%	86.23	184.10
Nuckolls	59	8,691	959,510	110.40	467,780	53.82	48.75%	59.52	122.10
Pierce	53	7,507	1,094,268	145.77	471,215	62.77	43.06%	70.75	164.31
Platte	52	6,691	1,128,712	168.69	574,125	85.81	50.87%	98.45	193.54
Rock	42	16,543	355,698	21.50	121,810	7.36	34.23%	8.22	24.01
Saunders	67	9,015	1,772,268	196.59	865,740	96.03	48.85%	104.07	213.04
Seward	68	9,210	1,541,800	167.40	766,088	83.18	49.69%	94.30	189.78
Sheridan	66	24,674	575,569	23.33	224,129	9.08	38.93%	7.15	18.37
Sioux	53	23,313	504,184	21.63	239,659	10.28	47.53%	6.42	13.51
Stanton	63	10,779	1,708,212	158.48	968,085	89.81	56.31%	92.84	164.87
Thayer	116	15,733	1,845,520	117.30	886,625	56.35	48.04%	62.57	130.25
Thurston	100	7,817	1,043,587	133.50	587,800	75.20	56.32%	91.52	162.50
Washington	50	4,719	868,435	184.03	468,264	99.23	53.92%	123.83	229.66
Wayne	38	5,195	1,135,824	218.64	509,522	98.08	44.86%	105.85	235.96
York	105	11,947	2,029,097	169.84	1,103,712	92.38	54.39%	92.17	169.46
37 Counties	2,575	493,792	45,455,376	92.05	22,965,953	46.51	50.53%	49.23	97.46

Compiled by Tax Department of C. & N. W. Ry. Co., Chicago, Illinois, November 20, 1922. #970.

Exhibit "C" to Plaintiff's Joint Exhibit 2.

Recapitulation of Land Sales From January to November, 1922, and the 1922 Equalized Assessment Against Same in 37 Nebraska Counties, Crossed by the C. & N. W. and C. St. P. M. & O. Railways.

County.	Transfers.	Acres, sold.	Consideration.		1922 equalized assessment.		Ratio.	1922 av'g equal. ass'm't per acre, entire county.	Est'd true value per acre, entire county.
			Total.	Per acre.	Total.	Per acre.			
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
Adams	28	4,438	$454,425	$102.39	$322,129	$72.58	70.89%	$71.83	$101.33
Antelope	54	8,371	704,648	84.18	387,140	46.25	54.94%	48.78	88.79
Boone	41	8,171	935,629	114.51	580,900	71.09	62.08%	71.10	114.53
Boyd	50	9,876	557,285	56.43	369,603	37.42	66.31%	43.32	65.33
Brown	55	26,458	406,210	15.35	185,900	7.03	45.76%	8.40	18.36
Burt	29	4,311	772,701	179.24	493,290	114.43	63.85%	117.47	183.98
Butler	21	2,995	383,624	128.09	222,045	74.14	57.88%	96.69	167.05
Cedar	59	6,804	872,226	128.19	616,782	90.65	70.72%	94.18	133.18
Cherry	68	31,243	290,092	9.29	157,207	5.03	54.15%	4.93	9.11
Clay	35	4,490	535,782	119.33	330,980	73.72	61.78%	77.74	125.83
Colfax	22	2,670	381,800	143.00	275,765	103.28	72.23%	112.77	156.13
Cuming	40	5,185	835,896	161.21	598,555	115.44	71.61%	120.33	168.04
Dakota	13	1,570	185,947	118.44	134,095	85.41	72.12%	96.51	133.82
Dawes	20	8,599	246,490	28.67	115,220	13.40	46.74%	10.31	22.06
Dixon	42	6,721	878,302	130.75	486,750	72.42	55.39%	80.27	144.92
Dodge	18	1,539	294,850	191.59	177,130	115.09	60.08%	118.73	197.62
Douglas	29	1,588	407,528	256.63	242,247	152.55	59.44%	144.64	243.34
Fillmore	47	6,229	687,586	110.39	500,840	80.40	72.83%	85.31	117.14
Hamilton	50	5,370	726,695	135.32	427,166	79.55	58.79%	86.73	147.53
Holt	99	38,260	1,246,764	32.59	634,415	16.58	50.87%	15.32	30.12
Knox	74	10,459	922,639	88.21	544,606	52.07	59.03%	50.65	85.80
Lancaster	57	6,338	969,175	152.92	597,475	94.27	61.65%	101.22	164.18
Madison	40	5,225	675,468	129.28	392,777	75.17	58.15%	86.23	148.30
Nuckolls	40	5,702	615,424	107.93	334,275	58.62	54.32%	59.52	109.58
Pierce	44	6,416	669,455	104.34	392,055	61.11	58.57%	70.75	120.80
Platte	56	6,687	1,031,598	154.27	634,632	94.90	61.52%	98.45	160.03
Rock	32	23,080	289,860	12.56	126,425	5.48	43.63%	8.22	18.84
Saunders	51	5,631	951,326	168.94	561,602	99.73	59.03%	104.07	176.31
Seward	45	4,830	628,983	130.22	367,665	76.12	58.46%	94.30	161.31
Sheridan	38	12,375	295,234	23.86	112,940	9.13	38.27%	7.15	18.64
Sioux	30	8,497	175,169	20.62	79,883	9.40	45.60%	6.42	14.08
Stanton	40	6,721	862,360	128.31	524,280	78.01	60.80%	92.84	152.70
Thayer	43	6,703	625,310	93.29	340,800	50.84	54.50%	62.57	114.81
Thurston	57	3,662	444,929	121.50	319,100	87.14	71.72%	91.52	127.61
Washington	13	1,365	231,250	169.41	143,312	104.99	61.97%	123.83	199.83
Wayne	30	5,071	864,507	170.48	554,474	109.34	64.14%	105.85	165.03
York	46	4,905	685,652	139.79	446,260	90.98	65.08%	92.17	141.63
37 Counties	1,556	308,555	22,743,319	73.71	13,730,720	44.50	60.37%	49.23	81.55

Compiled by Tax Department of C. & N. W. Ry. Co., Chicago, Illinois, November 20, 1922. #971.

129 **Exhibit "D" to Plaintiff's Joint Exhibit 2.**

Nebraska.

Table Showing 1920 U. S. Census Average Value per Acre of All Farm Land (Including Buildings) for All Nebraska Counties Except Five, and Also Showing Ratio of 1921 Average Assessed Value per Acre to Such County Value.

County.	1920 U. S. Census, av'g value per acre of all farm land (including buildings).	1921 average assessment per acre, entire county.	1921 assessment, ratio.	1922 average assessment per acre, entire county.
1.	2.	3.	4.	
	$	$		$
Adams	114.59	72.12	62.94%	71.83
Antelope	117.01	50.09	42.81%	48.78
Arthur	15.35	4.35	28.34%	4.73
Banner	22.22	7.30	32.85%	7.06
Blaine	.....	4.66	.....	4.65
Boone	159.86	70.60	44.16%	71.10
Box Butte	32.07	8.78	27.38%	9.03
Boyd	87.47	43.22	49.42%	43.32
Brown	25.61	8.92	34.83%	8.40
Buffalo	101.23	46.11	45.55%	46.14
Burt	245.50	120.30	49.00%	117.47
Butler	218.31	97.13	44.49%	96.69
Cass	228.52	111.32	48.71%	111.46
Cedar	185.14	97.00	52.39%	94.18
Chase	.....	12.20	.....	12.27
Cherry	15.18	5.29	34.85%	4.93
Cheyenne	64.52	22.30	34.57%	22.86
Clay	140.82	77.69	55.17%	77.74
Colfax	226.53	111.82	49.36%	112.77
Cuming	228.62	123.60	54.06%	120.33
Custer	57.94	20.49	35.37%	20.45
Dakota	179.63	96.86	53.92%	96.51
Dawes	28.82	10.45	36.26%	10.31
Dawson	90.10	41.14	45.66%	40.94
Deuel	67.60	26.16	38.70%	25.06
Dixon	195.30	82.10	42.04%	80.27
Dodge	254.80	119.36	46.84%	118.73
Douglas	280.43	144.05	51.37%	144.64
Dundy	32.06	10.47	32.66%	10.47
Fillmore	160.71	85.26	53.05%	85.31

County.	1920 U. S. Census, av'g value per acre of all farm land (including buildings).	1921 average assessment per acre, entire county.	1921 assessment, ratio.	1922 average assessment per acre, entire county.
1.	2.	3.	4.	
	$	$		$
Franklin	76.14	38.84	51.01%	38.89
Frontier	43.10	17.04	39.54%	16.69
Furnas	61.38	29.72	48.42%	29.63
Gage	156.25	79.91	51.14%	80.19
Garden	21.80	9.81	45.00%	9.22
Garfield	30.20	13.23	43.81%	12.10
Gosper	64.21	28.63	44.59%	28.86
Grant	16.72	3.60	21.54%	3.82
Greeley	99.11	42.29	42.67%	37.51
Hall	134.09	61.55	45.90%	61.38
Hamilton	186.21	86.68	46.55%	86.73
Harlan	73.35	32.00	43.64%	32.06
Hayes	.....	12.87	.....	12.55
Hitchcock	40.30	18.22	45.21%	18.48
Holt	43.50	16.24	37.33%	15.32
Hooker	.....	3.99	.....	3.70
Howard	111.75	45.71	40.91%	45.58
Jefferson	129.68	69.67	53.73%	70.11
Johnson	162.12	81.67	50.38%	85.46
Kearney	106.25	50.93	47.94%	50.47
Keith	36.35	13.48	37.10%	12.53
Keya Paha	26.23	10.38	39.58%	9.58
Kimball	42.42	17.88	42.15%	17.37
Knox	112.60	53.26	47.30%	50.65
Lancaster	178.99	100.40	56.09%	101.22
Lincoln	37.34	10.09	27.02%	10.07
Logan	35.48	8.45	23.82%	8.24
Loup	23.16	7.73	33.38%	6.62
McPherson ...	11.47	5.22	45.52%	3.52
Madison	176.88	86.72	49.03%	86.23
Merrick	143.25	61.70	43.07%	62.19
Morill	32.37	9.90	30.60%	10.10
Nance	160.08	64.63	40.37%	65.15
Nemaha	194.38	95.38	43.92%	94.88
Nuckolls	113.07	58.62	51.85%	59.52

Table Sumarizing First Mortgage Farm Loans Made During Period September, 1920, to March 1922, Inclusive, in 37 Nebraska Counties Crossed by Lines of the C. & N. W. and C., St. P., M. & O.

Each first mortgage loan below included represents over 60.00% of the 1921 assessed value of the particular lands mortgaged. The mortgages are widely distributed throughout each county. A large proportion of the mortgages listed run to banks, trust companies and insurance companies. Purchase money mortgages are excluded. No mortgage at over $100. per acre is included, except to banks, trust companies and insurance companies. According to the consensus of opinion of 95 Nebraska bankers, the maximum proportion of current market value which the owner of farm land in Nebraska can procure by way of first mortgage thereon averages approximately 41.00%. (Concensus of opinion of 182 Iowa bankers as to the same proposition is approximately 42.00%

County.	No. of mortgages.	Number of acres.	Av'g amount of first mortgage loan per acre.	Est'd true value per acre of land thus mortgaged (col. #4 divided by 41% ratio). See above.	1921 assessed value per acre.			Est'd true value of entire county based on mortgage data only (col. #8 divided into col. #5).	Est'd true value per acre of entire county as of April 1, 1922, as per col. #5 of table #804.	Ratio of av'g amount loaned per acre (column #4) to 1921 assm't of lands mortgaged (col. #7).
					Entire county.	Lands mortgaged.	Ratio of column #7 to column #6.			
1.	2.	3.	4.	5.	6	7.	8.	9.	10.	11.
Adams	97	14,495	$48.19	$117.54	$72.12	$60.54	83.95%	$140.02	$122.25	79.60%
Antelope	111	19,190	40.76	99.42	50.09	47.88	95.60%	104.00	93.50	85.13%
Boone	131	22,889	55.89	136.31	70.60	71.73	101.60%	134.16	150.75	77.91%
Boyd	95	21,533	32.16	78.44	43.22	40.03	92.62%	84.69	69.50	80.34%
Brown	51	22,158	6.97	17.00	8.92	7.45	83.53%	20.36	19.00	93.56%
Burt	44	7,1[illegible]5	65.86	160.64	120.30	86.01	71.50%	224.67	211.00	76.57%
Butler	98	12,570	71.42	174.20	97.13	86.52	89.08%	195.56	207.75	82.55%
Cedar	75	13,660	66.13	161.30	97.00	92.11	94.96%	1[illegible]9.87	160.25	71.80%
Cherry	295	241,700	5.65	13.78	5.29	5.26	99.40%	13.87	12.00	107.42%
Clay	115	14,394	59.75	145.73	77.69	74.11	95.40%	152.76	132.00	80.63%
Colfax	41	4,750	82.10	200.25	111.82	116.70	104.36%	191.90	219.50	70.35%
Cuming	38	4,309	72.66	177.22	123.60	91.09	73.70%	240.46	219.00	79.77%
Dakota	36	5,456	63.84	155.71	96.86	85.69	88.47%	176.00	167.75	74.50%
Dawes	90	50,538	10.73	26.17	10.45	9.71	92.92%	28.16	28.75	110.50%
Dixon	106	14,822	60.91	148.56	82.10	79.43	96.75%	153.55	158.25	76.68%
Dodge	75	7,052	77.92	190.05	119.36	107.14	89.76%	211.73	213.50	72.73%
Douglas	27	2,097	79.20	193.17	144.05	104.31	72.41%	266.78	260.00	75.93%
Fillmore	97	12,527	64.00	156.10	85.26	82.22	96.44%	161.86	136.25	77.84%
Hamilton	106	11,126	66.79	162.90	86.68	84.05	96.97%	168.00	152.50	79.47%
Holt	158	44,079	18.65	45.49	16.24	18.37	113.11%	40.22	38.50	101.52%
Knox	188	32,193	47.26	115.27	53.26	59.60	111.90%	103.01	96.75	79.30%
Lancaster	112	13,415	71.04	173.27	100.40	89.45	89.09%	194.49	175.00	79.42%
Madison	126	19,523	58.53	142.76	86.72	69.77	80.40%	177.57	177.25	83.89%
Nuckolls	89	12,735	51.14	124.73	58.62	58.28	99.42%	125.46	113.00	87.75%
Pierce	67	12,7[illegible]6	57.21	139.54	76.78	77.44	100.86%	138.35	144.50	73.88%
Platte	117	15,104	66.94	163.27	99.20	96.06	96.84%	168.60	190.25	69.69%
Rock	51	18,999	7.65	18.66	9.05	7.51	82.99%	22.48	25.00	101.83%
Saunders	90	8,044	70.90	172.93	104.26	99.49	95.42%	181.24	209.75	70.96%
Seward	91	10,745	68.41	166.86	94.17	84.81	90.06%	185.28	178.00	80.66%
Sheridan	145	71,595	9.00	21.96	7.34	7.24	98.64%	22.26	22.75	124.31%
Sioux	91	49,481	7.26	17.71	6.91	7.39	106.95%	16.56	14.50	99.59%
Stanton	29	4,802	65.16	158.92	98.16	95.55	96.94%	163.94	170.25	68.19%
Thayer	158	23,614	48.69	118.76	62.00	55.88	90.13%	131.77	123.25	87.17%
Thurston	140	10,432	61.84	150.83	92.77	82.81	89.27%	168.96	151.50	74.68%
Washington	25	2,594	71.01	173.20	125.86	93.30	74.13%	233.65	217.00	76.11%
Wayne	61	10,732	69.01	168.32	105.82	96.98	91.65%	183.66	207.25	71.16%
York	138	15,290	69.50	169.51	92.71	89.65	96.70%	175.30	164.50	77.52%
37 Counties	3,604	878,574	29.84	72.78	49.95	36.76	(Arith. Av'g). 92.54%	96.54	94.25	81.18%

Compliments of T. A. Polleys, Tax Comm'r., C. & N. W. Ry. Co., Chicago, Ill. April 28, 1922.

Copies of this table may be had on application. #805.

County.	1920 U. S. Census, av'g value per acre of all farm land (including buildings).	1921 average assessment per acre, entire county.	1921 assessment, ratio.	1922 average assessment per acre, entire county.
1.	2.	3.	4.	
	$	$		$
Otoe	200.16	105.58	52.75%	104.09
Pawnee	139.91	69.21	49.47%	69.23
Perkins	55.27	16.25	29.41%	16.14
Phelps	95.43	49.42	51.79%	49.45
Pierce	176.90	76.78	43.41%	70.75
Platte	194.78	99.20	50.93%	98.45
Polk	215.41	96.99	45.03%	97.44
Red Willow ...	50.30	21.29	42.33%	21.37
Richardson ...	196.95	92.11	46.77%	91.95
Rock	30.07	9.05	30.10%	8.22
Saline	173.42	93.41	53.86%	93.57
Sarpy	239.55	102.71	42.88%	104.44
Saunders	228.23	104.26	45.68%	104.07
Scott's Buff ...	111.66	37.69	33.75%	.....
Seward	198.58	94.17	47.42%	94.30
Sheridan	25.35	7.34	28.96%	7.15
Sherman	86.15	35.58	41.31%	35.13
Sioux	17.80	6.91	38.83%	6.42
Stanton	174.87	98.16	56.13%	92.84
Thayer	126.60	62.00	48.98%	62.57
Thomas	13.21	4.72	35.74%	3.27
Thurston	206.87	92.77	44.84%	91.52
Valley	99.04	39.51	39.90%	38.94
Washington ...	227.77	125.86	55.26%	123.83
Wayne	246.65	105.82	42.90%	105.85
Webster	86.60	44.85	51.80%	44.65
Wheeler	.....	13.20	.....	12.10
York	200.90	92.71	46.15%	92.17
State	87.91	39.19	44.58%	
37 C. & N. W. and C. St. P. M. & O. Co.'s	107.66	49.95	46.40%	

Compiled by Tax Department of C. & N. W. Ry. Co.; Chicago, Ill. Nov. 30, 1921. #750.

(Here follow Exhibits "E" and "F," marked side folio pages 130 and 131.)

132 Plaintiff offered in evidence the affidavit of T. A. Polleys, marked Plaintiff's Joint Exhibit 3, said affidavit being as follows:

Plaintiff's Joint Exhibit 3.

"STATE OF ILLINOIS,
County of Cook, ss:

T. A. Polleys, being first duly sworn, on oath says that he is the Tax Commissioner of the Chicago and North Western Railway Company and also of the Chicago, St. Paul, Minneapolis and Omaha Railway Company, and that he has held both said positions for more than seven years last past; that as such Tax Commissioner he has gathered or caused to be gathered from the public records, within the 37 Nebraska Counties crossed by the lines of the two plaintiff railways above mentioned, memoranda covering substantially all warranty deeds of acre property shown of record within said counties and executed between January 1, 1921, and the early part of November, 1922, said memoranda taken from the deed records covering as to each conveyance, the date of the instrument, the names of the parties thereto, the volume and page where recorded, the description of the property conveyed, the acreage conveyed, and the consideration recited or indicated in said deed; that he has
133 also posted or caused to be posted from the assessment rolls of each said Nebraska county against the consideration for each parcel of acre property thus transferred, the 1922 assessed value for said parcel, as equalized by the State Board of Equalization of Nebraska; that the work of gathering the said memoranda as to transfers and assessments from the public records of the said 37 Nebraska Counties, was done in part by affiant in person and in part by other regularly employed members of the tax departments of the said plaintiff companies above named; the said other persons all acting under the instructions and under the personal supervision of affiant in the performance of said work; that affiant has also caused the said original memoranda made by himself and the other members of the tax departments of the two plaintiff companies to be correctly transcribed in typewritten form and that the typewritten sheets hereinafter following, in the canvas-bound volume of which this affidavit is a part, constitute and contain a complete, accurate and carefully compared transcript of the said original memoranda of transfers and assessments gathered from the public records of the said 37 Nebraska counties as above described for the
134 period named; that said transfers and assessments thus transcribed in the said canvas-bound volume are correctly summarized in the three tables numbered respectively 969, 970, and 971 and lettered respectively A, B and C, as exhibits to the affidavit made by this affiant in the above entitled suit of the plaintiff Chicago and North Western Railway Company, under date of November 28th, 1922, that the 37 Nebraska Counties represented in the said transcript of land sales and assessments are as follows, to-wit: Adams, Antelope, Boone, Boyd, Brown, Burt, Butler, Cedar, Cherry,

Clay, Colfax, Cuming, Dakota, Dawes, Dixon, Dodge, Douglas, Fillmore, Hamilton, Holt, Knox, Lancaster, Madison, Nuckolls, Pierce, Platte, Rock, Saunders, Seward, Sheridan, Sioux, Stanton, Thayer, Thurston, Washington, Wayne, and York; that as shown by table #969 the total number of acre transfers in said 37 counties during the period January 1921 to November 1922 inclusive, was 4,131 the total acreage covered thereby being 802,347, and the average ratio of 1922 assessment to consideration being 53.82%; that, as shown by table #970 the total number of acre transfers in said 37 counties during the period January 1921 to December 1921
135 inclusive was 2,575; the number of acres comprised therein being 493,792 and the assessment ratio developed therefrom being 50.52%; that, as shown by table #971, the total number of acre transfers in said 37 counties, during the period January 1922 to November 1922 inclusive, was 1,556, the total acreage comprised therein being 308,555 and the 1922 assessment ratio disclosed therefrom being 60.37%; that, for the convenience of the court and of counsel, a copy of each of said tables #969, 970, and 971 is attached immediately following this affidavit."

Attached to this affidavit were copies of Exhibits A, Exhibit B, and Exhibit C which are part of plaintiffs' Joint Exhibit 2 above referred to. There was also attached to Mr. Polleys' affidavit (Plaintiffs' Joint Exhibit 3) a large volume of data containing the details of all of the sales transrers mentioned in said affidavit and in the affidavit, Plaintiffs' Joint Exhibit Number 2. These details show as to each transfer of land the date of the transfer, the parties thereto, the legal description of the property, the book and page where the conveyance was recorded, the number of acres involved, the consideration recited, and the assessed valuation of each such description.

136 In the petition of the Chicago and North Western Railway Company in Equity 339, the following allegations were made:

"Plaintiff further states to the Court that this is a suit in equity to enjoin the collection of illegal taxes against the plaintiff; that said taxes are illegal because the said property of plaintiff has been valued for taxing purposes at more than its true value while the property of all other tax payers in the state, and particularly real estate, has systematically and intentionally and continuously been valued at only a fraction of its true value thereby resulting in a discrimination against the plaintiff and depriving the plaintiff of equal protection of the law in violation of the constitution of the State of Nebraska and the laws of the state, and in violation of the Fourteenth Amendment to the Constitution of the United States."

Said petition further alleges:

"Plaintiff further alleges that the State board of equalization and the several county assessors of the State of Nebraska have for more than two years assessed and valued farm land in the State of Ne-

braska at much less than the true value thereof; that during the year 1920 farm lands in the state of Nebraska, which constitute more than ninety per cent of the value of all property in the State except railroads, was fixed for taxing purposes by the State board of equalization and by the county assessors at only 68 per cent of the true value of such farm lands; and plaintiff alleges that for the year 1921 the valuation of farm lands in the state of Nebraska as returned by the county assessors of several counties and as adjusted and equalized by the State Board of Equalization, was fixed at only about 47 per cent of the true value of said farm lands; and in that behalf plaintiff alleges that the fixing of the valuation of farm lands for taxing purposes at only 47 per cent of the true value thereof by the State Board of Equalization was the result of a systematic, intentional, notorious and continuous undervaluation
137 of said farm lands for taxing purposes; that such intentional and systematic undervaluation of said farm lands for taxing purposes was done for the purpose of relieving the said farm lands of their just share of the taxing burden in the state."

In the answer of the defendants in said equity Number 339 the following admissions were made in Paragraph IX:

"Defendants admit that for many years farm lands in the State of Nebraska has been valued for taxation at less than its true value. In the year 1920 farm lands were valued at about 68 per cent of the true value thereof. Defendants deny specifically that for the year 1921 farm lands were assessed at 47 per cent of its true value; deny that real estate generally was assessed at 47 per cent of its true value; and allege that for the year 1921 farm land was assessed at approximately 75 per cent of its true value and that real estate generally was assessed fully as high."

In Paragraph XI of said answer the defendants therein further state:

"Defendants admit that while the laws of the State of Nebraska require that all property shall be assessed at its full value they allege that during the entire history of the State it has been the practice of the taxing authorities to value properties of all descriptions, including all railroads, at less than their full value; that in fixing the values of all descriptions of property for taxation it has been the practice of taxing authorities of this state to place them somewhat lower than their fair market value; that railroads have been undervalued in fully as large proportion to their full value as have other forms of property in proportion to their full valuation."

138 In the petition in equity 340 the plaintiff, Chicago, St. Paul, Minneapolis and Omaha Railway Company made allegations identical with those hereinbefore quoted from the petition in Equity in Number 339.

In the answer of defendants in Equity Number 340 the following admissions and allegations were made:

"The defendants admit that for many years farm land in the State of Nebraska has been valued for taxation at less than its true value. In the year 1920 farm lands were valued at about 68 per cent of the true value thereof. Defendants deny specifically that for the year 1921 the farm land was assessed at 47 per cent of its true value; deny that real estate generally was assessed at 47 per cent of its true value and allege that for the year 1921 farm land was assessed at approximately 75 per cent of its true value and that real estate generally was assessed fully as high."

Said answer further alleges:

"That all property, both that of the plaintiff and that of all other tax payers was assessed at less than its true value and that for the years 1920 and 1921 the property of the plaintiff was not valued to exceed 94 per cent of its true value and that while farm lands were assessed at a slightly lower proportion as compared with plaintiffs' property yet in comparison with all other property the property of plaintiff was fairly and honestly valued."

Said answer further admits:

"Defendants admit that while the law of the state of Nebraska requires that all property shall be assessed at its full value,
139 they allege that during the entire history of the State it has been the practice of taxing authorities to value property of all descriptions, including all railroads at less than their full values; that in fixing the valuation of all descriptions of property for taxation it has been the practice of the taxing authorities of this state to place them somewhat lower than their fair market value."

The plaintiff, Chicago, St. Paul, Minneapolis & Omaha Railway Company offered in evidence the affidavit of Charles Jensch, marked M. & O. Plaintiffs' Exhibit 1, which affidavit is as follows:

140 **M. & O. Plaintiff's Exhibti 1.**

"In the District Court of the United States in and for the District of Nebraska, Omaha Division.

CHICAGO, ST. PAUL, MINNEAPOLIS AND OMAHA RAILWAY COMPANY, Complainant,

vs.

W. H. OSBORNE, JR., as State Tax Commissioner of the State of Nebraska, et al., Defendants.

Affidavit of Charles Jensch, Comptroller of the Chicago, St. Paul, Minneapolis, and Omaha Railway Company, Showing System Value and Nebraska Value of Property of Complainant for the Years 1917 to 1921, Inclusive.

STATE OF MINNESOTA,
County of Ramsey, ss:

I, Charles Jensch, being first duly sworn, on my oath depose and state:

That I am Comptroller of the Chicago, St. Paul, Minneapolis and Omaha Railway Company and have held that position since
141 May 24, 1916, except during the period of Federal Control when I was Federal Auditor of said Railroad. That for a period of six years, or from May 1, 1910 to May 24, 1916, I was General Auditor of said Railway Company and for twenty years prior thereto I was connected with its Accounting Department.

II.

That I have general charge of the books and accounts of the Chicago, St. Paul, Minneapolis and Omaha Railway Company and of the compilation of statistics taken therefrom.

III.

That by virtue of the authority vested in me as Comptroller of the Chicago, St. Paul, Minneapolis and Omaha Railway Company, I have examined the records of said Railway System and compiled full, true and correct figures showing the value of said railway property, both as to the entire system and as to the State of Nebraska, for the period commencing January 1, 1917 and ending December 31, 1921; and I have been duly authorized to set forth said figures for the purpose of showing the value of this Railway Company's property for the entire system and for the State of Nebraska, covering the period aforesaid.

IV.

That Exhibits 1 to 7, inclusive, attached to this affidavit
142 incorporated herein and made a part hereof, have been made by me and under my supervision for the purpose of showing the value of the property of the Chicago, St. Paul, Minneapolis and Omaha Railway System for 1917 and 1921, inclusive, and especially the value of said system which should be properly allocated to the State of Nebraska for the purposes of taxation.

V.

That Exhibit No. 1, hereto attached, is a statement showing the value of the entire line of the Chicago, St. Paul, Minneapolis and Omaha Railway for the period mentioned and as represented by—

1st. The Par Value of Stocks and Bonds;

2nd. The Market Value of Stocks and Bonds;

3rd. The Net Railway Operating Income Capitalized at 6% per annum;

4th. The annual rental paid by the United States Government capitalized at 6%, which is the rental that was paid by the United States Government annually to the Chicago, St. Paul, Minneapolis and Omaha Railway during the period of Federal Control—from January 1, 1918 to February 29, 1920—and which was agreed upon by the Government and the Chicago, St. Paul, Minneapolis and Omaha Railway as a fair and just compensation for the use of the property.

143 5th. For the year 1920 only, the amount which was allowed as the valuation of the Chicago, St. Paul, Minneapolis and Omaha Railway by the Interstate Commerce Commission in Ex Parte 74 and upon which they determined a reasonable return should be received by the Chicago, St. Paul, Minneapolis and Omaha Railway Company.

These various values are set forth for each year for the entire line in total and also per mile of road operated.

In the last column to the right of said exhibit are set forth figures which show the average value per mile of road of the entire system for a period of five years, determined by each of the five foregoing methods. By combining all of the results of these different methods we find the average to be $37,387 per mile of road.

VI.

Exhibit No. 2 is a statement showing, on the upper line, for each year from 1917 to 1921, inclusive, and an average for the five years, the valuation as shown in Exhibit No. 1 as represented in the par value of stocks and bonds of the Chicago, St. Paul, Minneapolis and Omaha Railway Company outstanding in the hands of the public on December 31st, of the years aforesaid. Taking the year 1917 for an

example, this value has been apportioned to the State of Nebraska on four different bases, to-wit:

144 1st. On line 2, Railway Operating Revenues. This allocates to the State of Nebraska 11.55 per cent of the value of the entire line, upon the theory that railway operating revenues in the State of Nebraska for the year 1917 were 11.55 per cent of the railway operating revenues of the entire system. The railway operating revenues allocated to the State of Nebraska were those revenues arising from all traffic, whether passenger or freight, originating and terminating in the State of Nebraska, plus a mileage proportion of all other traffic which either originated in the State of Nebraska and terminated in some other State, or originated in some other State and terminated in the State of Nebraska, or which originated and terminated in some other State but passed through the State of Nebraska—this method of assignment being that required of the Company by the State of Minnesota for its use in determining the taxes of said State according to the statutes of that State governing this subject.

This method of assigning operating revenue is the method generally approved by most authorities familiar with the subject, and is the method used and applied by the Chicago, St. Paul, Minneapolis and Omaha Railway Company in the states through which it operates; is not only the method required by the statutes of the State of Minnesota, but is also the method accepted by all the states

145 in which the Omaha Company operates, such as the States of Minnesota, Wisconsin and Iowa for the purpose of assigning operating revenues to such states, and is a fair and reasonable and just method of apportioning operating revenues to the State of Nebraska.

The revenues so assigned in the year 1917 were 11.55 per cent of the total operating revenues of the Chicago, St. Paul, Minneapolis and Omaha Railway Company. By applying this percentage of 11.55 to the valuation of $71,205,946 we determine the value in the State of Nebraska to be $8,224,287 for the year 1917. On the same line of this exhibit to the right of the year 1917, is shown separately for each of the years 1918, 1919, 1920 and 1921, as determined by the same process for each year, the value of the property of this Company allocated to the State of Nebraska, and in the next column to the right is shown the Accumulated Total, then the Average Value for Five Years, and the Average per Mile of Road for the five-year period.

2nd. On line 3 is shown the value in the State of Nebraska as determined by taking that proportion of the transportation train miles which were performed in the State of Nebraska compared with the transportation train miles performed on the entire system. During the year 1917 it was found that 13.94 per cent of the total transportation train miles was performed in the State of Nebraska

146 and this percentage applied to the total valuation of $71,205,946 shows the value in the State of Nebraska to be $9,926,109. To the right of this on line 3 is shown the values for the years 1918, 1919, 1920 and 1921, determined in the same

ner, and to the right of this the accumulated total, the average for ive years, and the average per mile of road in the State of Nebraska.

3rd. On line 4 is shown the value in the State of Nebraska as etermined by the traffic units performed in the State of Nebraska as compared with the traffic units performed on the entire system. The traffic units are the tons one mile of revenue freight carried and the passengers one mile of the passengers carried. The total tons one mile of the entire line and the passengers one mile of the entire line were combined, and the total tons one mile and the passengers one mile in the State of Nebraska were combined, and the percentage relation of that combined total in the State of Nebraska to the combined total of the entire system was found to be 7.13 per cent of the year 1917, and this percentage applied to the total valuation of $71,-
16,946 determined the value in the State of Nebraska on this basis to be $5,076,984. To the right of this amount on line 4 are shown the values for each of the years 1918, 1919, 1920 and 1921,
47 determined in the same manner, and to the right of this the accumulated total, the average for the five years, and the verage per mile of road in the State of Nebraska.

4th. On line 5 is shown the value in the State of Nebraska, assigned on the basis of the use of property in the State of Nebraska. This basis is described as follows:

The value of the entire system for the year 1917 was first determined on the same basis as the value claimed in Ex Parte 74 to be the value on which the Interstate Commerce Commission should use their action in determining the 6 per cent return to be used as their basis in prescribing reasonable rates.

The valuation of the entire system was first analyzed and classified into five groups as follows:

Valuation of locomotives.
" " passenger cars.
" " freight cars.
" " work cars.
" " all other property.

The valuation of locomotives was then assigned to the State of Nebraska on the basis of the proportion of the locomotive miles in the State of Nebraska as compared with the locomotive miles of the entire system. The valuation of passenger cars was assigned to the State of Nebraska on the basis of the proportion of passenger car miles performed in the State of Nebraska compared with the passenger car miles of the entire system. The valuation of
38 freight cars was assigned to the State of Nebraska in the proportion which the freight car mileage in the State of Nebraska bears to the freight car mileage of the entire line. The valuation of work equipment was assigned in the State of Nebraska on the basis of the proportion that combined passenger and freight car miles in the State of Nebraska bear to the combined passenger and freight car miles of the entire system.

Aggregating these values which represent the use of all classes of equipment, and finding that proportion which the aggregate value

in the State of Nebraska bears to the aggregate value of the entire line to be 10.60 per cent for the year 1917, and applying this percentage to the total valuation of $71,205,946, determined the value in the State of Nebraska on this basis to be $7,547,830. To the right of this amount on line 5 are shown the values for each of the years 1918, 1919, 1920 and 1921, determined in the same manner and to the right of this the accumulated total, the average for the five years, and the average per mile of road in the State of Nebraska.

5th. On line 6 is shown, for each year, the combined total of the values as determined by the four different methods above enumerated. By dividing this total by 4, we find the average valuation. In the year 1917 this valuation is $7,693,803, and the value as determined by a five-year average is $7,520,94

149 Dividing each of these values by the miles of road operated in the State of Nebraska, which in 1917 is 308.39 we find the value per mile of road operated to be $24,948; for the year 1918, we find it to be $23,060; for the year 1919, $19,971; for the year 1920, $25,17 and for the year 1921, $28,786, or an average for the five years, determined by the four different methods of allocation aforesaid, $24,388 per mile of road.

VII.

On Exhibit No. 3, line one is shown the value of the entire Chicago, St. Paul, Minneapolis and Omaha Railway for each of the years enumerated, as represented by the market value of all its stock and bonds in the hands of the public. This value has been determined by taking the high and low quotations for each month from the market quotations of these stocks and bonds, and applying the average for each year to the total amount of each separate security outstanding. Following this method, the total value of the entire system as represented by the market value of its stocks and bonds in the hands of the public is found to be:

For the year	1917	$74,904,3
" " "	1918	67,067,1
" " "	1919	65,091,4
" " "	1920	64,121,7
" " "	1921	62,614,1

150 the average for the five years being $66,759,821, or $38,1 per mile of road.

These values have been allocated, each year separately to the State of Nebraska on the following bases:

1st. Railway Operating Revenues.
2nd. Transportation Train Miles.
3rd. Traffic Units.
4th. Use of Property.

In the use of each of these four different bases, the method followed in each instance is that described in computing Exhibit No.

The four different amounts so determined combined, and an average of the same found by dividing by 4, gives the valuation in the State of Nebraska as follows:

	Total value (line 7).	Value per mile of road (line 9).
For the year 1917	$8,093,436	$26,244
" " " 1918	6,701,687	21,731
" " " 1919	5,632,034	18,263
" " " 1920	6,699,124	21,723
" " " 1921	7,429,174	24,090
Average for the five years	6,911,091	22,410

The market value of these stocks and bonds should be given serious consideration because it represents the value placed upon this property by the purchasing public, and if it had been possible to have acquired all of the stocks and bonds at the market quotations of these dates the ownership of the entire property could have been acquired at this price.

VIII.

On Exhibit No. 4, Line one, will be found the valuation of 151 the entire system as calculated by capitalizing the net railway operating income of the entire system at six per cent for each year mentioned. The net railway operating income as used in this exhibit is determined by taking the railway operating revenues, deducting therefrom the railway operating expenses, railway tax accruals, uncollectible railway revenue and the net charge or credit, from the charges to hire of equipment and joint facility rentals, leaving as the net railway operating income that amount which the corporation receives and which is applicable to its corporate needs, dividends, interest, etc. This amount capitalized at six per cent produces the following values for the entire system:

For the year 1917	$70,320,537
" " " 1918	43,745,335
" " " 1919	44,620,752
" " " 1920	27,358,273
" " " 1921	34,422,489

The average for the five years was $44,093,477, or an average per mile of road of 25,208. These values have been allocated, each year separately to the State of Nebraska on four different bases as follows:

1st. Railway Operating Revenues.
2nd. Transportation Train Miles.
3rd. Traffic Units.
4th. Use of Property.

In the use of each of these four different bases, the method followed in each instance is that described in computing Exhibit No. 2.

152 The four amounts so determined were added and divided by 4, thus producing a valuation in the State of Nebraska as follows:

	Total value (line 7).	Value per mile of road (line 9).
For the year 1917	$7,598,134	$24,638
" " " 1918	4,371,252	14,174
" " " 1919	3,860,811	12,519
" " " 1920	2,858,256	9,268
" " " 1921	4,084,228	13,244
Average for the five years	4,554,536	14,769

IX.

On Exhibit No. 5, line one, will be found the values as shown on line 5 of Exhibit No. 1. The value of the entire line is calculated by capitalizing at six per cent the annual rental paid by the Government to the Chicago, St. Paul, Minneapolis and Omaha Railway for the use of its property during the period from January 1, 1918 to February 29, 1920. This rental payment was based upon the operating results of the three years ending June 30, 1917, which included the year 1916 which was the most prosperous year in the history of the line. The net operating income obtained through the operation of the system during the year 1916 was greater than that ever obtained by this system in any other one year, and the governmental rental was based upon this factor of net operating income, upon this basis we find the valuation of the Chicago, St. Paul, Minneapolis and Omaha Railway to be as follows:

153

For the year 1918	$82,193,71
" " " 1919	82,193,71
" " " 1920	82,193,71

The average for the three years was $82,193,711, or an average per mile of road of $46,990. These values have been allocated, each year separately, to the State of Nebraska on four different bases, as follows:

1st. Railway Operating Revenues.
2nd. Transportation Train Miles.
3rd. Traffic Units.
4th. Use of Property.

In the use of each of these six different bases, the method followed in each instance is that described in computing Exhibit No. 2.

Adding together the four amounts so determined and dividing by 4 we find the value in the State of Nebraska to be as follows:

	Total value (line 7).	Value per mile of road (line 9).
For the year 1918	$8,213,207	$26,633
" " " 1919	7,111,811	23,061
" " " 1920	8,587,188	27,845
Average for the three years	7,970,735	25,846

X.

On Exhibit No. 6, line one, is shown the value of the entire system as claimed in Ex Parte 74 to be the value upon which the Interstate Commerce Commission should base their action in determining the six per cent return to be used as their basis in prescribing reasonable rates. This amount is $86,020,834. The Interstate Com-
154 merce Commission, in determining the values upon which they would base their calculations, stated a valuation, as claimed by the carriers in the Western Group, of $8,818,454,872, but allowed the carriers in the Western Group a valuation of $8,100,000,000 as that value upon which they were entitled to a reasonable return. The percentage reduction arrived at by using these two amounts is 8.15 per cent. Applying this percentage of reduction so determined by the Interstate Commerce Commission in Ex Parte 74 to the amount claimed by the Chicago, St. Paul, Minneapolis and Omaha Railway of $86,020,834, we find a valuation of $79,010,136, which, according to the decision of the Interstate Commerce Commission is the amount determined by them as the valuation upon which the Chicago, St. Paul, Minneapolis and Omaha Railway is entitled to a fair return. This valuation, for the year 1920 only, has been apportioned to the State of Nebraska on the following bases:

1st. Railway Operating Revenues.
2nd. Transportation Train Miles.
3rd. Traffic Units.
4th. Use of Property.

In the use of each of these four different bases, the method followed in each instance is that described in computing Exhibit No. 2. The amounts arrived at by these four different bases are shown in Exhibit No. 6. In combining the four different bases ap-
155 plied to the valuation allowed by the Commission, the average valuation in the State of Nebraska is found to be $8,254,584, or $26,767 per mile of road.

XI.

Exhibit No. 7 is a recapitulation of these different values arrived at by the different methods of allocation applied to the different valuations as determined in the foregoing exhibits, showing for each

of the different processes the aggregate total valuation in the State of Nebraska and the valuation per mile of road.

Dividing the accumulated total by 19, we find that the average valuation arrived at by a composite of all of these different processes for the State of Nebraska is a total of $6,689,455, or $21,691 per mile of road.

By comparing this value per mile of road of $21,691 with the relative figure for the entire line of $37,387 (see Exhibit 1) it will be noted that the property of this Company in the State of Nebraska has a value per mile of road of 58.02 per cent of the average value per mile of road of the entire line.

Therefore, this affiant avers and states the fact to be that the value of the Chicago, St. Paul, Minneapolis and Omaha Railway System in the State of Nebraska is not in excess of the sum of Six Million Six Hundred Eighty-Nine Thousand, Four Hundred and Fifty-Five Dollars ($6,689,455) in the aggregate, or Twenty-One Thou-
156 sand, Six Hundred and Ninety-One Dollars ($21,691) per mile of road.

This allegation is entirely consistent with the physical investment of the Chicago, St. Paul, Minneapolis and Omaha Railway Company in the State of Nebraska, as compared with its investment in other states in which it operates.

In compliance with the Federal Valuation Act, the Interstate Commerce Commission has made a survey showing the estimated cost of reproduction new of the fixed property of this Company in the various states and on the entire line, together with the cost at present prices of land owned by this Company. While the Chicago, St. Paul, Minneapolis and Omaha Railway Company does not approve of the unit costs used by the said Commission in arriving at such cost of reproduction new, the units of property used in compiling such survey were mutually agreed upon and represent the actual property in existence.

The following table, compiled from such survey, shows the relation between the cost of reproduction new per mile of road in the State of Nebraska as compared with the entire line for the principal classes of fixed property.

Cost of Reproduction New, per mile of road, as shown by Preliminary Land and Engineering Reports of the Interstate Commerce Commission:

157 Account.	Nebraska.	Entire line.	Ratio, Nebraska to entire line.
Land for Transportation Purposes	$5,436.72	$7,925.50	68.60%
Grading	5,131.26	9,651.02	53.17%
Bridges, Trestles & Culverts	3,114.03	5,159.64	60.35%
Ties	3,204.03	3,287.53	97.46%
Rails	3,407.22	4,783.37	71.23%
Other Track Material	1,001.81	1,546.69	64.77%
Ballast	2,041.99	2,582.82	79.06%
Track Laying and Surfacing	2,046.04	2,929.36	69.85%
Station & Office Buildings	1,233.59	2,140.53	57.63%
Water Stations	234.62	401.47	58.44%
Shops and Engine houses	221.53	1,511.34	14.66%
Wharves and Docks	.....	395.17	.00%
Coal and Ore Docks	.....	95.10	.00%
Signals and Interlockers	9.34	307.33	3.04%
Shop Machinery	5.16	593.11	.87%
Total of above items	$27,087.34	$43,309.98	62.54%

It will be seen from this table that the cost of reproduction new per mile of road for the principal classes of fixed property in the State of Nebraska is 62.54% of the cost per mile of road for the same classes of property on the entire line. A brief review of the physical characteristics of the property of the Chicago, St. Paul, Minneapolis and Omaha Railway Company in the State of Nebraska, as compared with the property in the other states, will show why this is true.

In the States of Wisconsin and Minnesota are located 190.19 miles of second, third and fourth tracks as compared with 1.71 of second track in the State of Nebraska.

The entire Car and Mechanical, Construction and Repair Departments of this Company are located outside the State of
158 Nebraska.

At the Head of the Lakes and Itasca, Wisconsin, is located a grain elevator, representing an investment of $275,000, with no corresponding investment in the State of Nebraska.

The principal freight terminals of the Company are located at Minneapolis, St. Paul and Duluth, Minnesota, Itasca and Superior, Wisconsin and Sioux City, Iowa, with large investments in land and terminal facilities, whereas in Nebraska there is but one similar terminal at Omaha.

At the Head of the Lakes at Superior, this Company has made large investments in wharves and docks with no similar investments in Nebraska.

In the States of Wisconsin and Minnesota this Company has 202 miles of electric automatic block signals, with no corresponding investment in Nebraska.

What has been said with reference to fixed property will apply equally to equipment. The lighter traffic in Nebraska, as compared with the entire line, requires the employment of much less equipment per mile of road than on other portions of the line, while the lighter trains require smaller locomotives. Thirty-four per cent of all the freight traffic originating on the line of this Company in Nebraska consists of livestock and their products, while on the entire line only 8% of the business consists of such traffic.

This class of traffic moves more rapidly than dead freight
159 and therefore requires the use of less units of equipment.
(Signed) Charles Jensch.

Subscribed and sworn to before me this twenty-fourth day of November, 1922. (Signed) P. J. McCough, Notary Public, Ramsey County, Minn. (Seal.) My commission expires July 31st, 1926.

(End of Plaintiff's Exhibit 1.)
(But see exhibits attached, next page.)

(Here follow exhibits, marked side folio pages 160, 161, 162, 163, 164, 165, and 166.)

167 **Notations as to Exhibits.**

The following Exhibits offered by the Chicago, Burlington & Quincy Railroad Company were used by the Plaintiff herein in its own behalf:

C. B. &. Q. Exhibit 1, being the affidavit of A. W. Scribner, Tax Agent of the Union Pacific Railroad Company, showing an examination under his supervision of records of 1783 mortgages on tracts of land of forty acres of more filed between March 31, 1920 and April 1, 1922, in 66 counties in Nebraska, showing a total mortgage consideration of $13,282,664.00 covering 369,541 acres, such information being secured from 44 responsible loan and trust companies doing business in Nebraska, showing the appraisement of such loan and trust companies of $40,523,743.00 placed on the property so mortgaged, and showing also a valuation placed on said lands by the owners when applying for loans of $49,644,610.00; showing also that the tax assessments levied against said lands in 1921 were $22,287,278.00, and in 1922, $21,664,378.00; which shows a ratio of assessed value of lands to the owners' valuation of 44.9 per cent in 1921, and 43.7 per cent in 1922, and the ratio of assessed value of said lands to the loan companies' valuation shows 55 per cent in 1921 and 53.5 per cent in 1922.

168 C. B. & Q. Exhibit 2, being another affidavit by Mr. Scribner, covering the same, subject, showing an investigation of the records of farm land sales in 53 counties in Nebraska between March 1, 1921 and April 1, 1922, with a total of 2,752 transfers covering 667,415 acres, the appraised value of which lands was $35,801,350.00 and the tax assessment thereon in 1922 was $16,616.72.

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Ex. No.	Value of entire line as represented by—	Value.	Pe of
	Miles of Road Operated	1917.	1,7
2.	Par Value of Stock and Bonds	$71,205,946	$4
3.	Market Value of Stock and Bonds	74,904,545	4
4.	Net Railway Operating Income Capitalized at 6%	70,320,537	4
5.	Annual Rental Paid by Government Capitalized at 6%		
6.	Amount allowed in Ex Parte 74		
7.	Total	$216,431,028	$12
8.	Average of above	$72,143,676	$4

Five year average, 1917 to 1921 inclusive.
$1,242,538,689 divided by 19 items equals $65,396,773.
$710,350 divided by 19 items equals $37,387.

Exhibit No. 1.

Chicago, Saint Paul, Minneapolis and Omaha Railway Company.

Value of Road Operated—Entire Line.

1917.		1918.		1919.		1920.		1921.		Avg. for 5 yrs.
.....	1,749.19	.....	1,749.19	.....	1,749.19	.....	1,749.19	.....	1,749.19	1,749.19
Value.	Per mile of road.	Value.	Per mile of road.	Value.	Per mile of road.	Value.	Per mile of road.	Value.	Per mile of road.	Per mile of road.
$71,205,946	$40,708	$71,167,946	$40,686	$71,180,946	$40,694	$74,305,946	$42,480	$74,820,146	$42,774	$41,468
74,904,545	42,822	67,067,175	38,342	65,091,407	37,212	64,121,790	36,658	62,614,187	35,796	38,166
70,320,537	40,202	43,745,445	25,008	44,620,752	25,509	27,358,273	15,641	34,422,489	19,679	25,208
.....	.....	82,193,711	46,990	82,193,711	46,990	82,193,711	46,990	.....	.....	x46,990
.....	.....	.....	.....	.....	.....	79,010,136	45,169	.....	.....	xx45,169
$216,431,028	$123,732	$264,174,167	$151,026	$263,086,816	$150,405	$326,989,856	$186,938	$171,856,822	$98,249	
$72,143,676	$41,244	$66,043,542	$37,757	$65,771,704	$37,601	$65,397,971	$37,388	$57,285,607	$32,750	$37,387

$96,773.
$37,387.

xThree year average.
xxOne year average.

Exhibit No. 2.

Chicago, Saint Paul, Minneapolis and Omaha Railway Company.

Assignment of Property to State of Nebraska.

	1917.	1918.	1919.	1920.	1921.	Ac
1. Value of Entire Line as represented by Par Value of Stocks and Bonds	$71,205,946	$71,167,946	$71,180,946	$74,305,946	$74,820,146	$
Apportioned to State of Nebraska on basis of:						
2. Railway Operating Revenues	$8,224,287	$7,209,313	$6,206,978	$7,742,680	$9,150,504	$
3. Transportation Train Miles	9,926,109	9,629,023	8,854,910	10,625,750	11,380,144	
4. Traffic Units	5,076,984	4,554,749	3,573,283	4,867,039	5,723,741	
5. Use of Property	7,547,830	7,052,743	6,000,554	7,816,986	9,255,252	
6. Total	$30,775,210	$28,445,828	$24,635,725	$31,052,455	$35,509,641	$
7. Value of State of Nebraska (Average of Four)	$7,693,803	$7,111,457	$6,158,931	$7,763,114	$8,877,410	$
8. Miles of Road Operated in Nebraska	308.39	308.39	308.39	308.39	308.39	
9. Value per Mile of Road Operated	$24,948	$23,060	$19,971	$25,173	$28,786	
Ratios allotted to State of Nebraska:						
10. Railway Operating Revenues	11.55	10.13	8.72	10.42	12.23	
11. Transportation Train Miles	13.94	13.53	12.44	14.30	15.21	
12. Traffic Units	7.13	6.40	5.02	6.55	7.65	
13. Use of Property	10.60	9.91	8.43	10.52	12.37	

Exhibit No. 2.

Chicago, Saint Paul, Minneapolis and Omaha Railway Company.

Assignment of Property to State of Nebraska.

	1917.	1918.	1919.	1920.	1921.	Accumulated total.	Average for five years.	Average per mile of road.	
alue									Entire
....	$71,205,946	$71,167,946	$71,180,946	$74,305,946	$74,820,146	$362,680,930	$72,536,186	$41,468	Line
is of:									
....	$8,224,287	$7,209,313	$6,206,978	$7,742,680	$9,150,504	$38,533,762	$7,706,753	$24,990	Nebraska
....	9,926,109	9,629,023	8,854,910	10,625,750	11,380,144	50,415,936	10,083,187	32,696	"
....	5,076,984	4,554,749	3,573,283	4,867,039	5,723,741	23,795,796	4,759,159	15,432	"
....	7,547,830	7,052,743	6,000,554	7,816,986	9,255,252	37,673,365	7,534,673	24,432	"
....	$30,775,210	$28,445,828	$24,635,725	$31,052,455	$35,509,641	$150,418,859	$30,083,772	$97,550	"
r)..	$7,693,803	$7,111,457	$6,158,931	$7,763,114	$8,877,410	$37,604,715	$7,520,943	$24,388	"
....	308.39	308.39	308.39	308.39	308.39	1,541.95	308.39		
....	$24,948	$23,060	$19,971	$25,173	$28,786	.....	$24,388		
....	11.55	10.13	8.72	10.42	12.23				
....	13.94	13.53	12.44	14.30	15.21				
....	7.13	6.40	5.02	6.55	7.65				
....	10.60	9.91	8.43	10.52	12.37				

Exhibit No. 3.

Chicago, Saint Paul, Minneapolis and Omaha Railway Company.

Assignment of Property Value to State of Nebraska.

	1917.	1918.	1919.	1920.	1921.	Accu
1. Value of Entire Line as represented by Market Value of Stocks and Bonds	$74,904,545	$67,067,175	$65,091,407	$64,121,790	$62,614,187	$3
Apportioned to State of Nebraska on basis of:						
2. Railway Operating Revenues	$8,651,475	$6,793,905	$5,675,971	$6,681,491	$7,657,715	$
3. Transportation Train Miles	10,441,694	9,074,189	8,097,371	9,169,415	9,523,618	
4. Traffic Units	5,340,694	4,292,299	3,267,588	4,199,977	4,789,985	
5. Use of Property	7,939,881	6,646,357	5,487,206	6,745,612	7,745,375	
6. Total	$32,373,744	$26,806,750	$22,528,136	$26,796,495	$29,716,693	$1
7. Value State of Nebraska (Average of Four)	$8,093,436	$6,701,687	$5,632,034	$6,699,124	$7,429,174	$
8. Miles of Road Operated, Nebraska	308.39	308.39	308.39	308.39	308.39	
9. Value per Mile of Road Operated	$26,244	$21,731	$18,263	$21,723	$24,090	

Exhibit No. 3.

Chicago, Saint Paul, Minneapolis and Omaha Railway Company.

Assignment of Property Value to State of Nebraska.

1917.	1918.	1919.	1920.	1921.	Accumulated total.	Average for five years.	Average per mile of road.	
$74,904,545	$67,067,175	$65,091,407	$64,121,790	$62,614,187	$333,799,104	$66,759,821	$38,166	Entire Line
$8,651,475	$6,793,905	$5,675,971	$6,681,491	$7,657,715	$35,460,557	$7,092,111	$22,997	Nebraska
10,441,694	9,074,189	8,097,371	9,169,415	9,523,618	46,306,287	9,261,257	30,031	"
5,340,694	4,292,299	3,267,588	4,199,977	4,789,985	21,890,543	4,378,109	14,197	"
7,939,881	6,646,357	5,487,206	6,745,612	7,745,375	34,564,431	6,912,886	22,416	"
$32,373,744	$26,806,750	$22,528,136	$26,796,495	$29,716,693	$138,221,818	$27,644,363	$89,641	"
$8,093,436	$6,701,687	$5,632,034	$6,699,124	$7,429,174	$34,555,455	$6,911,091	$22,410	"
308.39	308.39	308.39	308.39	308.39	1,541.95	308.39		
$26,244	$21,731	$18,263	$21,723	$24,090	.....	$22,410		

Exhibit No. 4.

Chicago, Saint Paul, Minneapolis and Omaha Railway Company.

Assignment of Property Value to State of Nebraska.

	1917.	1918.	1919.	1920.	1921.
1. Value of Entire Line as represented by Net Railway Operating Income Capitalized at 6%	$70,320,537	$43,745,335	$44,620,752	$27,358,273	$34,422,48
Apportioned to State of Nebraska on basis of:					
2. Railway Operating Revenues	$8,122,022	$4,431,402	$3,890,930	$2,850,732	$4,209,87
3. Transportation Train Miles	9,802,683	5,918,744	5,550,822	3,912,233	5,235,66
4. Traffic Units	5,013,854	2,799,701	2,239,962	1,791,967	2,633,32
5. Use of Property	7,453,977	4,335,163	3,761,529	2,878,090	4,258,06
6. Total	$30,392,536	$17,485,010	$15,443,243	$11,433,022	$16,336,91
7. Value State of Nebraska (Average of 4)	$7,598,134	$4,371,252	$3,860,811	$2,858,256	$4,084,22
8. Miles of Road Operated in Nebraska	308.39	308.39	308.39	308.39	308.3
9. Value per Miles of Road Operated	$24,638	$14,174	$12,519	$9,268	$13,24

Exhibit No. 4.

Chicago, Saint Paul, Minneapolis and Omaha Railway Company.

Assignment of Property Value to State of Nebraska.

1917.	1918.	1919.	1920.	1921.	Accumulated total.	Average for five years.	Average per mile of road.	
),320,537	$43,745,335	$44,620,752	$27,358,273	$34,422,489	$220,467,386	$44,093,477	$25,208	Entire Line
,122,022	$4,431,402	$3,890,930	$2,850,732	$4,209,870	$23,504,956	$4,700,991	$15,244	Nebraska
,802,683	5,918,744	5,550,822	3,912,233	5,235,661	30,420,143	6,084,029	19,728	"
,013,854	2,799,701	2,239,962	1,791,967	2,633,320	14,478,804	2,895,761	9,390	"
,453,977	4,335,163	3,761,529	2,878,090	4,258,062	22,686,821	4,537,364	14,713	"
,392,536	$17,485,010	$15,443,243	$11,433,022	$16,336,913	$91,090,724	$18,218,145	$59,075	
,598,134	$4,371,252	$3,860,811	$2,858,256	$4,084,228	$22,772,681	$4,554,536	$14,769	"
308.39	308.39	308.39	308.39	308.39	1,541.95	308.39		
$24,638	$14,174	$12,519	$9,268	$13,244	.....	$14,769		

Exhibit No. 5.

Chicago, Saint Paul, Minneapolis and Omaha Railway Company.

Assignment of Property Values to State of Nebraska.

	1918.	1919.	1920.	Accumulated total.	Average for three years.	Average per mile of road.	
1. Value of Entire Line as calculated by Annual Rental paid by Government Capitalized at 6%.....	$82,193,711	$82,193,711	$82,193,711	$410,968,555	$82,193,711	$46,990	Entire Line
Apportioned to State of Nebraska on basis of:							
2. Railway Operating Revenues.....	$8,326,223	$7,167,292	$8,564,585	$24,058,100	$8,019,367	$26,004	Nebraska
3. Transportation Train Miles.....	11,120,809	10,224,898	11,753,701	33,099,408	11,033,136	35,777	"
4. Traffic Units	5,260,397	4,126,124	5,383,688	14,770,209	4,923,403	15,965	"
5. Use of property	8,145,397	6,928,930	8,646,778	23,721,105	7,907,035	25,640	"
6. Total	$32,852,826	$28,447,244	$34,348,752	$95,648,822	$31,882,941	$103,386	"
7. Value State of Nebraska (Average of 4)	$8,213,207	$7,111,811	$8,587,188	$23,912,206	$7,970,735	$25,846	"
8. Miles of Road Operated in Nebraska	308.39	308.39	308.39	925.17	308.39		
9. Value per Mile of Road Operated..	$26,633	$23,061	$27,845		$25,846		

Exhibit No. 6.

Chicago, Saint Paul, Minneapolis and Omaha Railway Company.

Assignment of Property Values to State of Nebraska.

	1920.	Average per mile of road.	
1. Value of Entire Line as Claimed in Ex Parte 74	$86,020,834	.....	.....
x 2. Value of Entire Line, as allowed by Interstate Commerce Commission in Ex Parte 74	$79,010,136	$45,169	Entire Line
Apportioned to State of Nebraska on basis of:			
3. Railway Operating Revenues	$8,232,856	$26,696	Nebraska
4. Transportation Train Miles	11,298,449	36,637	"
5. Traffic Units	5,175,164	16,781	"
6. Use of Property	8,311,866	26,952	"
7. Total	$33,018,335	$107,066	"
8. Value State of Nebraska (Average of 4)	$8,254,584	$26,767	"
9. Miles of Road Operated in Nebraska	308.39		
10. Value per Mile of Road Operated	$26,767		

xValue of all line- in Western District as claim- by carriers was reduced 8.15% by the Interstate Commerce Commission, and the reduced value was taken as the basis upon which a reasonable return should be calculated.

Exhibit No. 7.

Chicago, Saint Paul, Minneapolis and Omaha Railway Company.

Recapitulation of Values of Railway Property State of Nebraska.

Value of railway property in Nebraska as determined from Exhibit—	1917.		1918.		1919.		1920.	
	Total State.	Per mi. of rd.	Total State.	Per mi. of rd.	Total State.	Per mi. of rd.	Total State.	Pr
No. 2 Par Value of Stock and Bonds	$7,693,803	$24,948	$7,111,457	$23,060	$6,158,931	$19,971	$7,763,114	$
No. 3 Market Value of Stock and Bonds	8,093,436	26,244	6,701,687	21,731	5,632,034	18,263	6,699,124	
No. 4 Net Railway Operating Income Capitalized at 6%	7,598,134	24,638	4,371,252	14,174	3,860,811	12,519	2,858,256	
No. 5 Annual Rental Paid by Government Capitalized at 6%	.....	.....	8,213,207	26,633	7,111,811	23,061	8,587,188	
No. 6 Amount allowed in Ex Parte 74	.....	.....	.....	.....	.....	.....	8,254,584	
Total	$23,385,373	$75,830	$26,397,603	$85,598	$22,763,587	$73,814	$34,162,266	$1
Average of Above	$7,795,124	$25,277	$6,599,401	$21,400	$5,690,897	$18,454	$6,832,453	$

$127,099,641 divided by 19 equals $6,689,455
$412,138 divided by 19 equals $21,691

xThree year Average.
xxOne Year Average.

Exhibit No. 7.

Chicago, Saint Paul, Minneapolis and Omaha Railway Company.

Recapitulation of Values of Railway Property State of Nebraska.

1917.		1918.		1919.		1920.		1921.		Aver. for 5 years.	
Total State.	Per mi. of rd.	Total State.	Per mi. of rd.	Total State.	Per mi. of rd.	Total State.	P'r mi. of rd.	Total State.	Per mi. of rd.	Total State.	Per mi. of rd.
$7,693,803	$24,948	$7,111,457	$23,060	$6,158,931	$19,971	$7,763,114	$25,173	$8,877,410	$28,786	$7,520,943	$24,388
8,093,436	26,244	6,701,687	21,731	5,632,034	18,263	6,699,124	21,723	7,429,174	24,090	6,911,091	22,410
7,598,134	24,638	4,371,252	14,174	3,860,811	12,519	2,858,256	9,268	4,084,228	13,244	4,554,536	14,869
.....	.....	8,213,207	26,633	7,111,811	23,061	8,587,188	27,845	.....	.....	x7,970,735	x25,846
.....	.....	.....	.....	.....	.....	8,254,584	26,767	.....	.....	xx8,254,584	xx26,767
3,385,373	$75,830	$26,397,603	$85,598	$22,763,587	$73,814	$34,162,266	$110,776	$20,390,812	$66,120	.....	.....
7,795,124	$25,277	$6,599,401	$21,400	$5,690,897	$18,454	$6,832,453	$22,155	$6,796,937	$22,040	$6,689,455	$21,691

455
391

whowing the ratio of assessed valuation to appraised value of 46.5 per cent.

C. B. & Q. Exhibit 3, being an affidavit of Pollock Parmalee showing examination of 1,300 mortgages filed of record in Nebraska in 66 counties between March 31, 1921, and March 31, 1922, for a total consideration of $9,885,152.00 covering 268,522 acres valued at $36,604,903.00 by the owners and $29,406,343 by the loan companies' appraisements, and assessed at $16,680,439.00 in 1921 and $16,295,888.00 in 1922, which gives a ratio of assessed value to owners value of 45.5 per cent in 1921 and 44.5 per cent in 1922, and a ratio of assessed value to loan companies' appraisement of 56.7 per cent in 1921 and 55.4 per cent in 1922.

C. B. & Q. Exhibit 4, being a volume containing 138 affidavits; the affidavit of Carl W. Krohl being a summary of the re-
169 maining 137 affidavits. These 137 affidavits were made by individuals of long residence in the counties where they reside and concerning which they testify. They were all experts and qualified as to the value of real estate in their respective counties. The affidavits cover 54 different counties in Nebraska, and show that the percentage of assessed value of loans in said counties to the fair market value thereof was 61.8 per cent in 1921 and 61.9 per cent in 1922.

C. B. & Q. Exhibit 5, containing the affidavits of eleven county and ex-county assessors comparing the fair market value of the land on April 1, 1922, to the average assessed value in the county where the affiant resides and the percentage of the market value of the assessed value per acre in 1922. The affidavit of Charles C. Parmalee being a summary of the other affidavits whowing that the assessed value of the real estate in the counties covered was 67 per cent of the fair market value during the same period. The Parmalee affidavits further shows that he interviewed four other present county assessors in as many counties in Nebraska who refused to make affidavits but who stated to him that they assessed farm lands in their re-
170 spective counties at from 50 to 75 per cent of the fair market value.

C. B. & Q. Exhibit 6, being the affidavit of C. C. Sadler, an abstractor of many years experience in Douglas County, Nebraska, and containing the names of grantors and grantees, the description of the property and amount of consideration and description of the consideration of 5,671 sales of real estate in the city of Omaha during the period from April 1, 1921, to April 1, 1922. The total consideration for those sales was $21,160,679.00. The 1922 tax assessment of the record against this property for 1922 was $13,525,290.00 being 63.9 per cent of the consideration evidenced by the deeds.

C. B. & Q. Exhibit 7, being the affidavit of Verne Hedge, an abstra-tor of 19 years experience, residing in the city of Lincoln, Nebraska. He checked all the sales and transfers of city property of record in Lancaster County, Nebraska, during the month of March, 1922, showing 225 transfers of city property for which the actual bonafide consideration is shown, the total consideration being $648,-637.00 and the 1922 tax assessment against said property be-ng

$391,493.00 showing the assessment to be 60.3 per cent of the
171 consideration shown of record.

C. B. & Q. Exhibit 9, being an affidavit of Pollock Parmalee containing a schedule showing a comparison of the 1922 assessment in Nebraska with the average value per acre of lands in Nebraska as revealed by the 1920 United States Census. The average value per acre of lands and improvements in Nebraska according to said census was $87.91, and the assessed value per acre of lands and improvements in Nebraska in 1922, was $37.07 per acre, or 42.17 per cent of the valuation as shown by the census department.

C. B. &. Q. Exhibit 10, being the affidavit of C. C. Parmalee bound with the affidavits of six county assessors of Nebraska showing that the assessments valued farm lands in their respective counties at 72 per cent of the fair market value and that they intentionally assessed it a certain percentage below actual value. The assessor of Richardson County stated that he assessed at 85% of, or 15% less than 1920 assessed valuation.

C. B. & Q. Exhibit 11, being the affidavit of A. E. Anderson, Federal Agricultural Statistician for the state of Nebraska. He prepared a statement from the United States census records showing as to each county in Nebraska the average value per acre of lands then in *in* 1900, 1910, and 1920; that the average value per acre
172 of the land alone in 1900 was 16.27; in 1910, 41.80; and in 1920, 78.87, or an increase in value of lands from 1900 to 1920 of 384 per cent, and that the average value per acre of lands and buildings in Nebraska in 1920 was $87.91.

C. B. & Q. Exhibit 13, being another affidavit of A. E. Anderson, Federal Agricultural Statistician for Nebraska, stating that he had obtained information as to value of lands and improvements thereon in Nebraska from over one thousand correspondents throughout the state; that from the information so received he prepared a statement as to each county in the state which statement is attached to his affidavit, showing the average value per acre of lands from 1916 to 1922 inclusive; that the average value per acre of land alone in Nebraska was $76.00 and the average value per acre of land and improvements was $85.00 per acre as of March 1, 1922.

C. B. & Q. Exhibit 14, being an affidavit of Pollock Parmalee to which is attached a copy of a statement issued by P. F. Bross, Secretary of Finance, W. H. Osborne, Jr., Secretary of the Board of Equalization, of Nebraska, and the county officers of Nebraska, showing the total transfers, acres and average sale price per acre in
173 each county during the period from July 1, 1918, to July 1, 1919, and the ratio of assessed value to sale value; that from said statement affiant computed the total sales value to be $174,475,750.04, and the total assessed value to be $71,168,907.50 covering 2,948,554 acres, and showing an average sale value of 59.17 per acre, and an average assessed value of 24.13 per acre in 1920, said assessed value being 40.78 per cent of the average sale value for the entire state.

C. B. & Q. Exhibit 21, an affidavit of Pollock Parmalee bound with affidavits of a number of land owners in Cass County, Nebraska from which Mr. Parmalee prepared a statement showing the land

ransfers in Cass County between April 1, 1921, and April 1, 1922, howing the average sale price per acre to be $181.63, and the aver- ge assessed value in 1922 was $99.86 per acre, that the total consid- erations for the sale of 2,081 acres was $374,020.00 and the fair cash market value as of April 1, 1922, was $371,825.00, which actual market value is 99.4 per cent of the sale consideration, or an average of $178.67 per acre; that from the affidavits secured from sixteen grantees of land in four counties in Nebraska, Mr. Parmalee com-
puted that the fair cash market value as of April 1, 1922, of
174 the lands so sold and covered by said affidavits was 100 per cent of the sale consideration recited in the conveyances.

C. B. & Q. Exhibit 25, being an affidavit of R. D. Pollard, showing hat from an examination of the report of the state tax commissioner of Nebraska for the years 1921-1922, the total amount of intangible personal property, not including corporate franchises, returned for taxation and valued in 1922 at 25 per cent of its actual value is but $35,316,423.00, and that 100 per cent value of such property is $141,265,692.00; that from an examination of the Bankers' Di- rectory of the United States for July, 1922, it appears that the de- posits in the Banks in Nebraska aggregated for that month, $432,- 020,390.00, showing that the percentage of value of intangible prop- erty listed for taxation in Nebraska for 1922 which includes not only bank deposits but promissory notes and choses in action was but 2.7 per cent of the actual value of the bank deposits in the state during that year; that from the Agricultural Bulletin of the United States Census of 1920 it appears that animals of all species on the farms in Nebraska were of the value of $326,002,105.00 and that
from the report of the State Tax Commissioner of Nebraska
175 for 1921-1922 all animals in Nebraska were valued for taxation in 1922 at but $146,562,301.00, or but 44.95 per cent of the census value of animals in said state.

C. B. & Q. Exhibit 28 being an analysis of the taxable property by classes in Nebraska in 1922, as made by the State Tax Commissioner of Nebraska, showing a total valuation of all property in the state of $3,191,747,870, of which farm lands represented 56.08 per *per* cent and farm personal property 7.95 per cent; city real estate, 16.89 per cent; city personal property, 8.70 per cent; railroads, 9.91 per cent, and other property, .47 per cent.

Plaintiff offered in evidence a copy of the complaint of the plain- tiff which was filed with said board of equalization in 1922, which complaint is as follows:

176 Before the State Board of Equalization and Assessment of Nebraska.

In the Matter of the Valuation of the Property of THE CHICAGO & NORTH WESTERN RAILWAY COMPANY in Nebraska for Assessment for the Year 1922.

Complaint of the Chicago & North Western Railway Company.

Comes now the Chicago & North Western Railway Company and files this its complaint before the State Board of Equalization and

Assessment for consideration before the said board at its meet commencing on the first Monday in July and also on the third M day in July for the year 1922, and asks that the valuation of property in Nebraska for assessment purposes be equalized and duced in the following particulars:

1.

The valuation of said company's property in Nebraska does exceed thirty million dollars, and the value fixed for said prop by this board for the year 1922 is grossly excessive, unjust, and equitable.

2.

The property of said company has been valued by this board only at an amount grossly in excess of its true value, but
177 valuation of other property in each county in the state by various county assessors has been made at not to exceed 5 of the true value of such other property, which constitutes a crimination against your complainant in violation of the Const tion and Laws of Nebraska, and in violation of the Fourtee Amendment to the Constitution of the United States, guarantee to your complainant equal protection of the law. Your complain says that to so discriminate against it and in favor of other prop in each county in the state denies to your complainant equal tection of the law.

3.

This complaint applies to all valuations and assessments of c plainant's property made or reviewed by the State Board of Equal tion and Assessment.

Wherefore, your complainant prays,

First, that the valuation of complainant's property be fixed not to exceed thirty million dollars, and

Second, that your complainant be placed on a basis of equal with the valuations fixed for other property in such county in state; to-wit, not exceeding 50% of the true value thereof
178 taxing purposes; or that the valuations of other property each county in the state be raised to full 100% value ther so that complainant's property will be assessed on a basis of equal with other property in each county in the state.

Dated this third day of July, 1922. Chicago & North West Railway Company, By —— ——, Its Attorney.

Plaintiff offered in evidence, in connection with the compla filed with the Board of Equalization in 1922, the bills of excepti showing the evidence taken and proceedings had before the s Board of Equalization in July, 1921, and in July, 1922, which s bills of exception are as follows:

179 Ex. 29.

C. B. Q. C. W. P.

Before the State Board of Equalization and Assessment of the State of Nebraska.

In re Assessment and Equalization of Steam Railroads in the State of Nebraska.

Complainant's Bill of Exceptions.

TRANSCRIPT OF PROCEEDINGS HAD AND TESTIMONY TAKEN BEFORE SAID BOARD TUESDAY, JULY 25, 1922.

John S. Taggart,

Official Reporter,

Fourth Judicial District,

Nebraska.

180 Before the State Board of Equalization and Assessment of the State of Nebraska.

In re Assessment and Equalization of the Property in the State of Nebraska of the Following Railroads: UNION PACIFIC RAILROAD COMPANY, ST. JOSEPH & GRAND ISLAND RAILWAY CO., CHICAGO, BURLINGTON & QUINCY RAILROAD CO., CHICAGO & NORTHWESTERN RAILWAY COMPANY, CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY CO.

Appearances: Hon. D. M. Amsberry, Secretary of State, presiding in the absence of the Governor; Hon. George W. Marsh, Auditor of Accounts; Hon. D. B. Cropsy, Treasurer; Hon. W. H. Osborne, Jr., Tax Commissioner; Hon. Hugh Lamaster, Assistant Attorney General.

Mr. Byron Clark, Solicitor C., B. & Q. R. R. Co.

Mr. C. A. Magaw, General Attorney U. P. R. R. Co. and St. Joe & G. I. Ry. Co.

Mr. Wymer Dressler, Attorney C. & N. W. Ry.

On Tuesday, July 25th, 1922, the following proceedings were had in the above entitled matter:

181 The Chairman: Gentlemen, there is a quorum present and you may proceed.

Mr. Clark: Have you your abstract complete?

Mr. Osborne: No, the abstract is not complete, but I think we can stipulate as to that, can we not?

Mr. Clark: That will be satisfactory to us.

The Chairman: Gentlemen; we will now see what the Secretary has to present.

Mr. Osborne: I have nothing to present except that these applications have been filed for rehearing on the valuation of the Northwestern, St. Paul, Minneapolis & Omaha C. B. & Q., Union Pacific and St. Joe & Grand Island. Do you want to take them up separately, Mr. Clark, or how?

Mr. Clark: If it is agreeable to the Board I thought we would proceed as we did last year, to put in one record and let everything offered be on behalf of each road separately, so that each road, if they wish, may use the record afterwards. Is there any objection to that, Mr. Lamaster?

Mr. Lamaster: I really had not thought of the procedure as far as that is concerned. I should think there would be no ob-
182 jection to that.

Mr. Clark: There is the record made last year (indicating).

Mr. Lamaster: I do not see any objection to that.

Mr. Clark: Your Honorable Board, the several railroad companies, the Union Pacific Railroad Company, the St. Joseph & Grand Island Raillway Company, The Missouri Pacific——

Mr. Osborne (interrupting): There is no protest here by the Missouri Pacific.

Mr. Clark (Continuing:)—the Chicago & Northwestern Railway Company, the Chicago, St. Paul, Minneapolis & Omaha Railroad Company, the Chicago, Burlington & Quincy Railroad Company—is that all?

Mr. Osborne: I think so.

Mr. Clark: Each offers in its own behalf each exhibit and all of the evidence offered at this hearing, except the Union Pacific in its amended——

Mr. Osborne: In its amended Form G statement.

Mr. Magaw: Yes.

Mr. Clark: And the same for the Burlington, which will be the evidence for those two roads.

183 Mr. Osborne: The Burlington has not filed on yet.

Mr. Clark: We are just filing it.

Mr. Magaw: We will call Mr. Scribner,

A. W. Scribner, called as a witness on behalf of the complainant and after being duly sworn testified as follows:

Examined by Mr. Magaw:

Q. Please state your name?

A. A. W. Scribner.

Q. What is your occupation?

A. Tax Commissioner of the Union Pacific Railroad Company and the St. Joseph and Grand Island Railway Company.

Q. Mr. Scribner, you are familiar with the original statement on Form G that was filed by the Union Pacific Railroad Company, are you?

A. Yes sir.

Q. And did you subsequently file a revised statement for that railroad on form G?

A. Yes sir.

184 Q. And this is a copy of it? (Showing witness paper.)

A. Yes sir.

Q. I show you Exhibit "1" and ask you to state whether that is a copy of the revised statement on Form G?

A. Yes sir, it is.

Mr. Magaw: I will ask the Commission if it can be considered that the original statement on Form G for the Union Pacific Railroad Company can be considered in evidence and copies will be furnished later. I do not have them at this time.

Mr. Osborne: That can be taken from my office and put in the record.

Which said document was marked Exhibit "A", and same is returned herewith and attached hereto as follows:

185 **Exhibit A to Scribner's Testimony.**

(Copy.)

Copy of Ex. "A."

Form G.

Statement Showing Mileage, Capital Stock, Earnings, and Operating Expense of the Union Pacific Railroad Company for the Year Ending December 31, 1921.

Mileage in Nebraska (Average)		1,211.59
Capital Stock:		
Common $222,291,600		
Preferred 99,543,500		
		$321,835,100.00
Gross Earnings in Nebraska:		
Passenger	$6,900,338.91	
Freight	31,940,339.15	
Other Sources.....	4,279,310.55	
		43,119,988.61
Operating Expenses for Nebraska, including taxes, Maintenance, Repairs and Renewals, excluding Additions and Betterments.....		30,269,632.94
Net Earnings in Nebraska.....		12,830,355.67

Earnings per mile Gross in Nebraska.....	35,589.3
Earnings Per Mile Net in Nebraska.....	10,606.1
Interest on Debt.....	9,605,940.2
Dividends made	26,210,900.0

I, (Signes) H. J. Stirling, Auditor, of the Union Pacific Railroad Company do solemnly swear that the above statement is true and correct to the best of my knowledge and belief. (Signed) H. J. Stirling, Auditor.

Subscribed in my presence and sworn to before me this 23rd day of March, A. D. 1922. (Signed) Geo. W. Tribble. [Seal.]

NOTE.—The above statement should be sworn to by the President secretary or treasurer of the company and should be made to the auditor of State during the month of January. (See Sec. 88, Chapter 16 Compiled Stat. of Nebraska 1887.)

186 Mr. Osborne: There is no objection to this supplemental Form G going in, but I would also like to have the original in at the same time.

Mr. Magaw: It is so understood. That will be considered in evidence as well.

Mr. Osborne: I do not object to that at all.

Mr. Magaw: We then introduce in evidence the revised statement of Form G for the Union Pacific Railroad Company, and we would like the same stipulation with regard to the original statement made by the St. Joseph & Grand Island Railway Company Form G, that it be considered in evidence.

Mr. Osborne: Why not submit it right now?

Mr. Magaw: I haven't the copies here—if you have the original

Mr. Osborne: I have the original in my office just filed today.

Mr. Magaw: My idea was we would simply have the reporter make copies of the original of Form G and attach them to the record and let the record show they were introduced at this time. Is that satisfactory?

187 Mr. Osborne: Yes, and let it be shown also that the Form G statement of the St. Joe & Grand Island is filed as of this date.

Mr. Magaw: Yes, that is the revised statement.

Mr. Osborne: No, there is no revised statement of the St. Joe & Grand Island.

The Witness: Through a misapprehension no original statement on Form G was filed for the St. Joseph & Grand Island Railway.

Q. Until this morning?

A. Until this morning. Therefore that is the original statement.

Mr. Magaw: I will ask the reporter to mark the original statement Form G for the St. Joseph & Grand Island Railway Company, as Exhibit 2.

Q. Look at Ex. "2," Mr. Scribner, and state whether or not that is a correct copy of the original statement Form G filed this morning by the St. Joseph & Grand Island.

A. It is.

Mr. Magaw: We now offer Exhibits 1 and 2.

Which said documents, Exhibits "1" and "2," so offered and received in evidence, are returned herewith as follows:

88 **Exhibit 1 to Scribner's Testimony.**

Copy of Exhibit "1."

Form G.

Revised Statement.

tatement Showing Mileage, Capital Stock, Earnings, and Operating Expenses of the Union Pacific Railroad Company for the Year Ending December 31, 1921.

ileage in Nebraska (Average)		1,211.59
pital Stock:		
Common	222,291,600	
Preferred	99,543,500	
		321,835,100.00
oss Earnings in Nebraska:		
Passenger	$6,900,338.91	
Freight	31,940,339.15	
Other sources	4,279,310.55	
		43,119,988.*00*
erating expenses for Nebraska including Taxes, Maintenance, Repairs and Renewals, excluding additions and betterments		32,638,836.63*
Earnings in Nebraska		10,481,151.98
rnings per mile gross in Nebraska		35,589.59
rnings per mile net in Nebraska		8,650.74
erest on debt		9,605,940.20
idends made		26,210,900.00

*Includes

Operating Expenses	$28,638,839.11
Taxes	2,999,002.63
Equipment Rentals	1,625,814.18
Joint Facility Rents	241,377.72
Uncollectible Railway Revenues	6,558.43
	$32,638,836.63

(The following rider is attached to face of Exhibit:)

In compliance with the requirements of the railway Commissi
of the State of Nebraska, Union Pacific Railroad Compa
189 furnishes statements of Earnings and Expenses in that Sta
in the compilation of which it has apportioned Revenues fro
Interstate Traffic and Expenses incurred in connection with su
traffic in Nebraska and other States, on basis prescribed by said co
mission. For the purpose of this report, Revenues, Expenses, Tax
Equipment Rents, Joint Liability Rents and uncollectible Railw
Revenue were apportioned as between Nebraska and other States i
accordance with the formulas prescribed by that Commission.

This road certifies to the correctness of the figures reported here
ascertained according to the formulas prescribed, but in so doing
is not to be understood as admitting or approving the correctness
the formulas.

I, H. A. Toland, Auditor of the Union Pacific Railroad Compa
do solemnly swear that the above statement is true and correct to th
best of my knowledge and belief. (Signed) H. A. Toland, Audito

Subscribed in my presence and sworn to before me this 18th da
July A. D. 1922. (Signed G. W. Tribble. (Seal.)

NOTE.—The above statement should be sworn to by the Presid
Secretary or Treasurer of the Company and should be made to th
Auditor of State during the month of January. (See Sec. 88 Cha
16, Compiled Statues of Neb. 1887.)

190 **Exhibit "2" to Scribner's Testimony.**

*Statement Showing Mileage, Capital Stock, Earnings, and Operati
Expenses of the* the *St. Joseph and Grand Island Railway Co
pany for the Year Ending December* 31, 1921.

Mileage in Nebraska	112.8
Capital Stock	13,599,400
Gross Earnings in Nebraska	1,769,971
Passenger	144,980
Freight	1,525,009
Other Sources	99,972
Operating Expenses for Nebraska, including Taxes, Maintenance, Repairs and Renewals, excluding Additions and Betterments	1,551,154
Net Earnings in Nebraska	218,817
Earnings per Mile, Gross	15,714
Earnings per Mile, Net	1,942
Interest on Debt	274,993
Dividends Made	Non

In compliance with the requirements of the Railway Comm
sion of the State of Nebraska, The St. Joseph & Grand Island Railw
Company furnishes statements of Earnings and Expenses in th

State, in the compilation of which it has apportioned Revenues from Interstate Traffic and Expenses incurred in connection with such traffic to Nebraska and other States, on basis prescribed by the said Commission. For the purpose of this report, Revenues, Taxes, Expenses, Equipment Rents, Joint Facility Rents, and Uncollectible Railway Revenue were apportioned as between Nebraska and
191 other States, in accordance with the formulas prescribed by that Commission.

This road certifies to the correctness of the figures reported hereon, ascertained according to the formulas prescribed, but in so doing, it is not to be understood as admitting or approving the correctness of the formulas.

I, L. R. Wood, Auditor, of the St. Joseph and Grand Island Railway Company, do solemnly swear that the above statement is true and correct to the best of my knowledge and belief. (Signed) L. R. Wood, Auditor.

Subscribed in my presence and sworn to before me this 22nd day of July, A. D. 1922. Lewis D. Brown. (Seal.)

NOTE.—The above statement should be sworn to by the President, Secretary or Treasurer of the Company and should be made to the Auditor of State during the month of January. (See Section 88, Chapter 16, Compiled Statutes of Nebraska, 1887.)

192 Q. Mr. Scribner, I will ask you to look at Exhibit "3" and state what that is.

Mr. Osborne: Before we leave this——

Mr. Magaw: Very well——

Mr. Osborne: I am wondering if we might agree that this statement Form G, insofar as it relates to the St. Joe & Grand Island, was due to be filed by the Company in January of the current year?

Mr. Magaw: Yes.

The Witness: That is correct.

Mr. Magaw: Now, read the pending question.

(Question read.)

A. That is a statement showing "Carrier Property"—That is railroad property, belonging to the Union Pacific Railroad Company in the State of Nebraska which is assessed by local assessors and not under the jurisdiction of the State Board of Equalization and Assessment of Nebraska for railroad and assessment purposes.

Q. Is that statement correct?

A. It is.

Mr. Magaw: We offer Exhibit "3" in evidence.

Which said document marked Exhibit "3", so offered and received in evidence, is in the words and figure as follows:

193 **Exhibit 3 to Testimony of Scribner.**

Statement Showing "Carrier Property" Belonging to the Union Pacific Railroad Company in the State of Nebraska Which is Assessed by Local Assessors and Not Under the Jurisdiction of the State Board of Equalization and Assessment of Nebraska for Railroad Assessment Purposes.

Real Estate.	Assessed valuation, year 1921.
Boone County:	
Part S. E. ¼ Sec. 16-20-6, 15.91 acres	$2,700
Buffalo County:	
Kearney:	
Lot 1133	94
Lots 1497, 1498, 1499	346
" 1503, 1504	238
" 1726, 1728	166
" 1734	95
" 1738, 1739	126
" 234	1,620
The Midway Land Co.'s 1st East Lawn Add'n:	
Lot 10, Block 42	6
Nantasket:	
Triangular, Block 63	100

Cheyenne County:		
Part S. W. ¼ Sec. 5-14-51, 20.80 acres		2,640
Colfax County:		
Part N. E. ¼ N. E. ¼ Sec. 13-17-3, 3.63 acres		435
Custer County:		
Callaway Railroad Add'n:		
Lots 1 to 8, Block 56		200
Deuel County:		
Par. Lots 6 & 7, Sec. 30-13-41, 34.00 acres		720
Douglas County:		
City of Omaha:		
Lots 5, 6, 7,	Block F	81,000
" 3, 4, 5, 6,	" O	6,000
" 1, 2, 3, 4, 5, 6, 7, 8,	" P	14,000
" 1, 2, 3, 9, 10, 11, 12,	" 32	22,000
" 1, 2, 3, 4, 5, 6, 7,	" 33	25,000
" 1, 2, 3, 5, 6, 7, 8,	" 34	22,000
Part Lot 2	" 39	300
" " 5, & 7, All 6,	" 63	11,450
Carried Forward		$191,236

Statement Showing "Carrier Property"—Continued.

194		Assessed valuation, year 1921.
Brought forward		$191,236
Part Lots 4, 6, 7 & All 1, 2, 3, 8,	Block 65	30,200
" 1 to 12	" 66	64,000
" 1, 2, 3, 4,	" 67	20,000
" 1 to 8,	" 68	48,000
" 5, 6, 7 & S. 47' Lots 2, 3, 4 & 9" Adj.,	" 88	840,500
" 2, 8, & all Lot 1,	" 95	14,000
" 7, 8 & all 1 to 6,	" 96	25,700
" 4, 6, 8, 9 & all 5,	" 97	17,000
Lots 6, 7 & 20' strip W. Lot 5,	" 187	14,500
" 2 to 7 & strip W. Lots 4 & 5,	" 208	47,000
" 6,	" 227	5,000
" 4 & strip adj.,	" 228	7,000
" 8,	" 310	5,000
" 2, 4, 6, 7, 8,	" 317	21,500
" 3, 4, 7, 8,	" 328	8,000
" 3, 8 & part Lots 1 & 2,	" 354	16,050
" 1, 4 to 7 & N. 66' Lot 3,	" 360	14,250
Chicago St. bet. Blocks 34 & 65		9,000
Davenport St. bet. " 65 & 69		3,700
" " " 66 & 68		2,200
Capitol Ave. " " 68 & 95		5,800
Dodge Street, " " 96 & 97		10,000
Burt Street, " " 334 & 354 (Part)		4,200
" " " " 328 & 360		8,000
[illegible]		4,000
[illegible] Street part in Dodge Street		[illegible]
Seventh Street part in S. T. to S. line Cass St.		5,500

13th Street part bet.	Blocks 354 & 355		55,000
Webster St. " " "	1 & 360		5,000
Alley in S. T.	Block 97		6,000
" " " "	" 65		1,100
" " " "	" 34		2,500
" outside S. T.	" 32		1,500
" " " "	" 354		1,800
" in " "	" 360		500
" " " "	" P		1,500
			1,200

Jefferis' Replat:

Lots 1 to 4, 7, 14, 15, 17 to 22,	Block 2		3,275
" 1 to 6, E. 25' 7 & 8, 11, 13, 14, 19, 20,	" 3		2,050
" 1 to 17,	" 4		4,200
" 1 to 23,	" 5		5,750

Linquest's Addition:

Lots 1, 2, 3 & 29 to 32			1,650

Lands:

Lot 1 in Neb. (3) Sec. 11-15-13,	2.85 acres		5,000
East part Lot 1, " 14,	13.22		26,000
N. E. ¼ S. E. ¼, S. E. of B. & M. (7) Sec. 28	5.15		20,000

195

N. E. ¼ S. E. ¼ (Lot 8), Sec. 28	7.00		28,000
Lot 2 in W. ½ S. W. ¼ " 15-16-9,	23.65		1,065
" 28 " 10-15-10,	14.30		2,445

Statement Showing "Carrier Property"—Continued.

	Assessed valuation, year 1921.
Millard:	
Lots 7 to 10, Block 15	1,600
Fractional " 17	50
Carried Forward	$1,618,521
Brought Forward	$1,618,521
City of Omaha Cont'd:	
Lot 1, Block 176	29,000
" 2, " 176	18,800
" 3 & 4, " 176	38,000
" 5 & 6, " 176	48,000
" 7, " 176	18,000
" 8, " 176	22,000
" 1, " 177	23,000
" 2, " 177	18,000
" 3 " 177	18,000
" 4, " 177	31,000
" 5, " 177	22,000
" 6, 7, 8, " 177	158,000
Gage County:	
Part N. E. ¼ S. E. ¼ Sec. 17-2-7, 2.00 acres	90
" S. E. ¼ " " 16-2-7, 5.00 "	2,830
" S. E. ¼ S. W. ¼ " 15 8.25 "	100
Garden County:	

Oshkosh:			
Lot 5, Block 1			225
Hall County:			
Part W. ½ N. E. ¼	Sec. 15-11-9	50.80 acres	8,060
" E. ½N. W. ¼	" 15	9.10 "	1,440
Howard County:			
St. Paul:			
Lot 4, Block 113			25
Lincoln County:			
Lots 5 & 6,	Sec. 1-13-30	89.30 acres	4,160
" 1 to 4,	" 2	182.58 "	
S. ¼ N. W. ¼, N. W. ¼ S. E. ¼; S. ½ S. E. ¼	" 2	200.00 "	17,015
Lots 1 to 5,	" 12	172.10 "	14,775
N. ½ N. W. ¼	" 12	80.00	7,230
Part Lot 4 in S. W. ¼	" 35-14-30	43.65 "	
Lot 5,	" 35	61.30 "	
196			
Part Lot 4 in N. W. ¼	" 35	26.00 "	1,400
Part E. ½ N. W. ¼	" 32	9.20 "	
" N. W. ¼	" 32	13.22 "	
Lot 2	" 7-13-29	13.00 "	425
Part N. E. ¼	" 34-14-30,	45.00 "	5,250
Triang. tract N. E. ¼	" 31	7.55 "	450
N. E. ¼ N. E. ¼	" 27-14-33,	40.00 "	415

Statement Showing "Carrier Property"—Continued.

	Assessed valuation, year 1921.
Brady Island:	
Lot 13, Block 12	400
North Platte:	
Lots 7 & 8, " 84	500
Hershey:	
Lots 1 & 2, " 2	1,200
Carried forward	$2,128,371
Merrick County:	
Brought forward	$2,128,371
Part Island No. 2, S. ½ S. W. ¼ Sec. 13-13-6	1,975
" " " 2, N. W. ¼ " 24	365
Morrill County:	
Part Gov't Lots 3 & 4, Sec. 28-20-50, 84.00 acres	250
" Tax Lot 4, " 28 42.00 "	85
Nance County:	
Part N. ½ N. E. ¼ S. E. ¼ Sec. 11-16-6 12.14 "	2,066

Platte County:

Columbus:

Lots 5 to 8, Block 121	480
Part S. W. ¼ S. E. ¼ Sec. 23-17-1W, 41.41 acres	1,400
" N. W. ¼ " 26 9.20 "	375

Sarpy County:

Platted part Albright's Choice Add'n U. P. Sub. N. ½ N. ½ Sec. 15-14-13:

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Lots "A" & 1 to 14, Block 1	1,275
" 1 to 22, " 2	1,870
" 1 to 13, " 3	1,560
" 16 to 28, " 3	1,560
" 1 to 13, " 4	1,560
" 24 to 36 " 4	1,560
" 1 to 12, " 6	1,320
" 20 to 24 " 6	550

Lands:

Pt. T. L. 6 "D" 1	Sec. 15-14-13, 1.38 acres			490
" " " 6 "B" 2	15	1.48	"	520
" " " 5 Less R/W	15	9.67	"	3,570
" " " 4 "B"	15	8.70	"	3,095
Fcty. Plc. Out Lot 1	15	.24	"	140
Pt. T. L. 9 "B,"	15	.27	"	105
T. L. 15, 600' wide	15	36.35	"	7,645
" " "F," 1	14	2.50	"	525
" " 10,	30	6.90	"	760
" " 11,	30,	6.90	"	760

Statement Showing "Carrier Property"—Continued.

Scott's Bluff County:

Unoccupied right of way from Haig to Neb.-Wyo. State Line:					Assessed valuation, year 1921.
N. E. ¼ N. E. ¼	Sec. 10-22-56	2.50	acres		260
S. E. ¼ N. W. ¼ S. W. ¼	3	29.51	"		2,775
N. E. ¼	4	10.90	"		800
S. W. ¼ S. E. ¼ & N. W. ¼ S. W. ¼	33-23-56	11.40	"		1,010
S. E. ¼ S. W. ¼ & S. W. ¼ S. W. ¼	33	11.70	"		375
Carried Forward					$2,169,452
Brought Forward					$2,169,452
N. E. ¼ & S. E. ¼ N. W. ¼	Sec. 32-23-56	37.40	acres		750
S. W. ¼ N. W. ¼	32	1.00	"		70
N. W. ¼ S. E. ¼; N. E. ¼ N. W. ¼; N. W. ¼ N. W. ¼	32	13.15	"		820
N. E. ¼ N. E. ¼	31	7.60	"		95
S. ½ S. E. ¼ & S. ½ S. W. ¼	30	20.06	"		1,035
S. ½ S. E. ¼ & S ½ S. W. ¼	25-23-57	22.41	"		935
S. ½ S. E. ¼ & S. E. ¼ S. W. ¼	26	12.17	"		115
S. W. ¼ S. W. ¼	26	3.05	"		30
S. ½ S. E. ¼ & S. ½ S. W. ¼	27	20.67	"		255
N. E. ¼ N. W. ¼ & N. W. ¼ N. W. ¼	34	3.59	"		50
S. E. ¼ S. E. ¼ & S. W. ¼ S. E. ¼	28	2.36	"		25
N. ½ N. E. ¼ & N. ½ N. W. ¼	33	26.30	"		590
N. ½ N. E. ¼ & N. ½ N. W. ¼	32	12.12	"		115
N. E. ¼ N. E. ¼ & N. W. ¼ N. E. ¼	31	6.13	"		20
N. ½ N. W. ¼ & S. W. ¼ N. W. ¼	31	8.56	"		5
S. ½ N. E. ¼; N. W. ¼ S. E. ¼; N. ½ S. W. ¼	30-23-58	15.38	"		580
	35	13.08	"		390

N. ½ S. E. ¼ & S. W. ¼	34	18.18	"	605
S. ½ S. W. ¼	34	5.55	"	245
S. ½ S. E. ¼	33	7.65	"	

198 Saunders County:

Yutan:

Lot 11 Frac. Block 22	200
Frac. Lot. 19, " 35	110

Near Mead:

Part S. W. ¼ N. W. ¼ Sec. 36-15-8 6.00 acres	525

Valparaiso, Jensen's Addition:

Lots 2, 3 & 6 Block 17	450
Total Real Estate	$2,177,467

Personal Property.

Douglas County:

	Assessed valuation, year 1922.
Horses & Carts	$200
Autos	2,400
Shop Mach'y & Tools	583,045
Office Furniture & Fixtures	70,000
Mach. & Repair Shop, etc., Storehouse Buildings	1,123,175
	$1,778,820

Statement Showing "Carrier Property"—Continued.

	Assessed valuation, year 1922.
Hall County:	
Shops, Mach'y & C.	$55,870
Shop Buildings	95,000
	$150,870
Total personal property	$1,929,690
Summary.	
Total assessed valuation, real estate	$2,177,467
" " " personal property	1,929,690
Grand Total	$4,107,157
(In lead pencil:) Add 1/3	1,369,052
	$5,476,209

199 *List of Machine Shops, Repair Shops, and Storehouses Belonging to Union Pacific Railroad in the City of Omaha, Douglas County, Nebraska, Situated on the Right of Way and Depot Grounds of said Company as of April 1st, 1922.*

Description.	Size.	Material.	Actual value.
Boiler House	41 x 50	Brick	$500
" " Addition	16 x 16	"	300
Coal bin	18 x 44	Frame	10
Car Shop & Platform	170 x 391	"	12,000
Erecting shop & store room	22 x 391	"	6,000
Store shed	10 x 36	"	50
Hose House	10 x 16	"	25
Blacksmith Shop	13 x 30	"	250
Privy	13 x 30	"	275
Repair shed	10 x 12	"	60
Repair iron platform	13 x 168	"	170
Air brake hose house	22 x 40	"	250
Store house	12 x 38	"	330
Platform	60 x 352	"	1,120
Coal Bin	36 x 110	"	100
Store House	50 x 268	Brick)	
" " Platform		Frame)	44,000
Oil House	50 x 134	Brick)	
Oil House Platform	50 x 300	Frame)	12,000
Repair House	16 x 20	"	75
Paint Shop	20 x 30	Brick	400
Fuse & Torpedo House	20 x 74	"	500
Lumber House	40 x 100	Frame	700
Machine & erecting shop	150 x 395	Brick	100,000

List of Machine Shops, Repair Shops, and Storehouses.—Continued.

Description.	Size.	Material.	Actual value.
Machine & erecting extension	150 x 100	Brick	40,000
" & " "	150 x 200	"	80,000
Pattern shop	50 x 199	"	20,000
Boiler shop	150 x 310	"	80,000
New Power house	76 x 209	"	150,000
2 air compression houses	24 x 24	"	1,500
Generator house & Platform	586 x 16	Frame	4,000
Iron house	43 x 41	"	1,000
Fire engine house	30 x 100	Brick	1,000
Record building	20 x 40	Frame	1,500
Babbit- shop	76 x 90	Brick	1,900
Platform	20 x 42	Frame	80
Coal sheds	14 x 76 & 14 x 57	"	1,100
Platform	14 x 72 & 14 x 232	"	
"	50 x 200	"	700
Office & Lab-ratory	50 x 170	Brick	50,000
Toilet & Locker room	17 x 40	Con. & Brk.	3,000
Blacksmith shop & Platform	90 x 376	Brick	60,000
Gasoline storage house	28 x 50	"	1,500
Iron house	50 x 162	"	12,000
" " office	8 x 12	"	50
Stripping shed	42 x 176	"	12,000
Car shop	342 x 492	"	195,000
Paint & Wheel shop	178 x 302	"	95,000
Glass & Paint store & Add'n	20 x 32	Frame	
Paint & Store House	20 x 47	"	800
Engine platform			

200	Paint store	32 x 62	Brick	6,000
	Coal bin	36 x 252	Frame	700
	Store "A" & Platform (very old)		"	150
	Lime store house & addition	48 x 94	Brick	4,000
	Tool house	36 x 45	Frame	700
	Oil house	18 x 30	Brick	2,000
	Hose repair house	20 x 60	Frame	3,000
	Lumber sheds	20 x 143 & 20 x 142	"	2,600
	Shaving burner	48 x 68	"	10,000
	Pony saw mill	24 x 150		8,000
	Chemical storage house	12 x 20		1,780
	Dry kiln	47 x 58		10,000
	Planing mill	90 x 302		65,000
	Sand blast & Varnish remover			3,000
	Wheel platform, derrick & crane			15,000
	Total			$1,123,175

(End of Exhibit 3.)

201 Q. When you say "not under the jurisdiction of the State Board," Mr. Scribner, you mean that it was not under the jurisdiction of the State Board for assessment purposes?

A. As stated "for railroad assessment purposes," meaning original assessment.

Mr. Magaw: I might state that the exhibits that have been introduced in evidence and what is shown thereby have reference only to the railroads named therein, that is, the St. Joseph & Grand Island and the Union Pacific, and are introduced in evidence on behalf of those railroads and not on behalf of the Burlington and the other parties to this suit.

Mr. Osborne: As a member of the Board I have no objection to this exhibit going into the record for what it is worth, this Exhibit "3," pending an opportunity to substantiate its authenticity, and not confessing that the State Board has not given consideration to the property therein mentioned.

202 Mr. Magaw: That is all for the present.

Mr. Lamaster: I may have a few questions later on.

Mr. Clark: That is on these matters he has just covered?

Mr. Lamaster: Yes.

Mr. Clark: Can you finish that now?

Mr. Lamaster: No, I cannot do it right now, Mr. Clark.

Witness excused temporarily.

Mr. Clark: The Complainants will call Mr. Morgan.

E. F. Morgan called as a witness on behalf of the complainants and after being duly sworn testified as follows:

Examined by Mr. Clark:

Q. Give your name and business.

A. E. F. Morgan, Assistant Auditor of the Chicago, Burlington & Quincy Railroad Company, Chicago.

Q. Mr. Morgan, are you acquainted with the books and records and data of the Chicago, Burlington & Quincy Railroad Company from which Forms G and 9 are made?

A. Yes sir.

Q. And were they made under your supervision as originally filed, if that is the fact?

203 A. I made them personally and for the signature of the Comptroller.

Mr. Clark: Now, you want the originals offered, Mr. Osborne?

Mr. Osborne: Yes.

Mr. Clark: To keep the record continuous the complainant railroad admits that Exhibit "5" would be Form "G" filed with the State Tax Commission for the year ending December 31, 1921. What date was it filed?

Mr. Osborne: You mean the original?

Mr. Clark: Yes.

Mr. Osborne: I think that may be supplied.

Mr. Clark: And filed on the — day of ——, 1922. And Exhibit "6" a statement on Form 9 for the year ending December 31, 1921, filed with the Tax Commissioner on the — day of April, 1922, and are exhibits on behalf of the State.

Mr. Osborne: Yes.

Which said documents, marked Exhibits "5" and "6," so offered and received in evidence, are in the words and figures as follows:

204 **Exhibit "5" to Morgan's Testimony.**

Form G.

Statement Showing Mileage, Capital Stock, Earnings, and Operating Expenses of the Chicago, Burlington & Quincy R. R. Co. for the Year Ending December 31, 1921.

Mileage in Nebraska—Total Operated Mileage..	2,906.02
Capital Stock (system).....	$170,839,100.00
Gross Earnings in Nebraska.....	41,160,307.23
Passenger	7,818,276.07
Freight	30,044,617.32
Other Sources	3,297,413.84
Operating Expenses for Nebraska, including Taxes, Maintenance, and renewals, excluding additions and betterments:	
Operating Expenses.....	25,213,372.34
Taxes	2,207,533.85
	27,420,906.19
Net Earnings in Nebraska.....	13,739,401 04
Earnings per Mile, Gross.....	14,163.81
Earnings per mile, net.....	4,727.91
Interest on Debt (system).....	6,807,134.36
Cash	44,925,917.00
Dividends Made (system) Stock.....	60,000,000.00

I, H. W. Johnson, Comptroller, of the Chicago, Burlington & Quincy Railroad Co., do solemnly swear that the above statement is true and correct to the best of my knowledge and belief. (Signed) H. W. Johnson, Comptroller.

205 Subscribed in my presence and sworn to before me this 7th day of April, A. D. 1922. (Signed) Henry Lunde, Notary Public. (Seal.)

NOTE.—The above statement should be sworn to by the President Secretary or Treasurer of the Company and should be made to the Auditor of State during the month of January. (See Section 8 Chapter 16, Compiled Statutes of Nebraska, 1887.)

206 **Exhibit "6" to Morgan's Testimony.**

Statement Showing the Total Gross and Net Earnings of the Chicago, Burlington & Quincy R. R. Co. for the Year Ending December 31, 1921.

Total gross Earnings during the year for which made in Nebraska	$41,160,307.2
Total net earnings during the year for which made in Nebraska	13,739,401.0
Total amount expended in operation or maintenance of the property and the improvements thereof..	(see note.
Amount of same expended in improvements or betterments	(see note.
Amount expended in maintenance or operation (including taxes) in Nebraska	27,420,906.1
Dividend last declared on shares of stock System, per cent 20%, Amt.	34,167,380.0

Date, Number and amount of all dividends declared on this stoc during the year next preceding the date of this report: Date-, Marc 25, 1921; March 31, 1921; June 25, 1921; Dec. 27, 1921. Numbe 4. Amount, $44,925,917.00 cash; 60,000,000.00 stock.

NOTE.—Impossible to answer these two questions at this time all records of cost of additions and betterments for the year 192 were destroyed in the General office Building fire of March 15t 1922.

207 I, H. W. Johnson, Comptroller of the Chicago, Burlingto & Quincy R. R. Co. do solemnly swear that the above stat ment is true to the best of my knowledge and belief. (Signed H. W. Johnson, Comptroller.

Subscribed in my presence and sworn to before me this 7th day April, 1922. (Signed) Henry Lunde, Notary Public. (Seal.)

Q. Now, Mr. Morgan, did you afterwards, subsequent to the filin of Forms G and 9, discover any erro-s therein?

A. Yes sir, I did.

Q. About when did you first discover such errors?

A. It was about a week ago.

Q. And in what did such errors consist?

A. The operating expenses as shown on the original statemen were understated.

Q. How did the error occur, if you know, in the original
208 statement?

A. As you probably know we had a very disastrous fire in the General Office Building on the night of March 14th, and a great many records were destroyed, and at the time the original statement was made out shortly after this fire, I called upon the Auditor of Expenditures' office to furnish me with a statement of the operation expenses in Nebraska; they had not completed their entire analysis of the operating expenses by States but they gave me these Nebraska figures and I used the figures that they furnished me at that time in compiling these two statements. About a week or ten days ago I had occasion to look over this report and I was rather curious as I could not understand why the net revenue in Nebraska was so much higher than it ordinarily would be, and upon comparing it with the actual figures for all states which the Auditor of Expenditures' office had compiled after we made out these original statements I found a discrepancy of approximately three million dollars in the figures. On taking this up with the Auditor as to why the figures originally furnished were so much lower, their
209 investigation developed that in arriving at the figures they furnished me they inadvertently left out all the general expenses, all the traffic expenses and all the expenses of trainmen,—how this happened they could not explain; it was just a human error and they had nothing to balance to at that time.

Q. Have you made an amended statement now?

A. I have and that includes two other changes.

Q. What are they?

A. In the statement first filed the taxes shown on that statement were merely the Nebraska State taxes and did not include any proportion of the Federal taxes, United States Government taxes, properly assignable to Nebraska. Neither did the operating expenses include anything to represent the amounts paid for joint facilities in the State of Nebraska, nor for the Nebraska proportion of the net amount paid for rented equipment.

Q. These statements, as compiled, do they come within the terms of "net operating income," meaning railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents, as provided in Sec-
210 tion 8583-A of the Transportation Act of February 28, 1920?

A. As amended the figures show the net earnings for Nebraska are comparable with that net railway operating income as defined in the Act.

Q. The Statement that you have made applies to the amended Form G and Form 9, does it?

A. Yes sir, for the year 1921.

Mr. Clark: We will offer in evidence as Exhibits "7" and "8," these documents, and ask leave to substitute the copies which the witness has and leave these originals with the Tax Commissioner for his file.

Mr. Osborne: I would not care to substitu-e them I will file them for what they are worth.

Mr. Clark: I am making an offer of evidence, are the exhibits received?

Mr. Osborne: Yes, they are both in the record, are they not?

Mr. Clark: Very well.

Exhibits "7" and "8" returned herewith are as follows:

211 **Exhibit "7" to Morgan's Testimony.**

Form G.

Amended Statement Showing Mileage, Capital Stock, Earnings, and Operating Expenses of the Chicago, Burlington & Quincy R. R. Co. for the Year Ending December 31, 1921.

Mileage in Nebraska	2,906.02
Capital Stock	$170,839,100.00
Gross Earnings in Nebraska	41,160,307.23
Passenger	7,818,276.07
Freight	30,044,617.32
Other Sources	3,297,413.04
Operating Expenses for Nebraska including Taxes, Maintenances, Repairs and Renewals, excluding Additions and betterments	31,289,319.87
Net Earnings in Nebraska	9,870,987.36
Earnings per mile, gross	14,163.81
Earnings per Mile, net	3,396.74
Interest on debt	6,807,134.56
Dividends made:	
Cash	44,925,917.00
Stock	60,000,000.00

I, E. F. Morgan, Assistant Auditor of the Chicago Burlington & Quincy R. R. Co., do solemnly swear that the above statement is true and correct to the best of my knowledge and belief. (Signed) E. F. Morgan, Assistant Auditor.

Subscribed in my presence and sworn to before me this 25th day of July A. D. 1922. (Signed) Hazel Nigh, Notary Public. (Seal)

*Operating Expenses	$28,209,414.[illegible]
Nebraska taxes	2,207,533.[illegible]
U. S. Taxes	654,978.[illegible]
Hire of Equipment	125,229.[illegible]
Jt. Facility Rents	92,163.[illegible]
	$31,289,319.[illegible]

212 Form No. 9.

Copy of Exhibit "8."

Amended Statement Showing the Total Gross and Net Earnings of the Chicago, Burlington & Quincy R. R. Co. for the Year Ending March 31, 19—.

Total gross earnings during the year for which made in Nebraska	$14,160,307.25
Total net earnings during the year for which made.	9,870,987.36
Total Amount expended in operation or maintenance of the property and the improvements thereof	See note.
Amount of same expended in improvements or betterment	See note.
Amount expended in maintenance or operation including Taxes (In Nebraska)	31,269,319.27
Dividend last declared on shares of stock System per cent 20% amount	24,167,380.00

Date, number, and amount of all dividends declared on this stock during the year next preceding the date of this report: Date-: Mch. 25, 1921; Mch. 31, 1921; June 25, 1921; Dec. 27, 1921. Number, 4(?). Amt, $44,925,917.00, *cost;* $60,000,000.00, Stock.

Note.—Impossible to answer these questions at this time as all records of cost of additions and betterments for the year 1921 were destroyed in the General Office Building fire of March 15, 1922.

I, E. F. Morgan, Assistant Auditor of the Chicago, Burlington & Quincy R. R. Co. do solemnly swear that the above statement is true to the best of my knowledge and belief. (Signed) E. F. Morgan, Assistant Auditor.

Subscribed in my presence and sworn to before me this 25th day of July, 1922. (Signed) Hazel High, Notary Public. (Seal.)

213 Mr. Lamaster: You mean these originals shall be left in the office of the Tax Commissioner and you substitute copies for the record?

Mr. Clark: I am offering the originals and ask leave to substitute copies and leave the originals with the Tax Commissioner.

Q. Have you made a further statement from the records showing the net earnings for the years 1917 to 1921 inclusive?

A. I have.

Q. From what is that statement compiled?

A. Form G which has been filed with the State for each of the years in question. There was not deducted from the net earnings in Nebraska any proportion of U. S. Government taxes, nor the

Nebraska proportion of hire of equipment or joint facility rents. The affidavit shows what the net earnings in Nebraska would have been had these amounts been deducted.

Mr. Clark: We offer in evidence Exhibit "9," just identified by the witness.

Which said document, Exhibit "9," so offered and received in evidence, is in the words and figures as follows:

214 *Copy of Exhibit "9."*

Omaha, Nebraska, July 25th, 1922.

Statements, Form G, sworn to by the comptroller of this Company have been filed annually with the Auditor of State, State of Nebraska, which have shown the "Net Earnings in Nebraska" of the Chicago, Burlington & Quincy Railroad Company for the five year period ended December 31, 1921, as follows:

1917	$9,530,535.4
1918	8,320,696.7
1919	8,578,058.7
1920	3,390,921.4
1921	10,088,381.0

The figures shown above for the years 1917 to 1920 inclusive are the Operating Revenues for each year less the Operating Expenses and State Taxes, with nothing deducted for the proportion of United States Government taxes properly assignable to the State of Nebraska, nor for Hire of Equipment or Joint Facility Rents. The proportion of United States Government taxes has been deducted in arriving at the figures shown for the year 1921.

After deducting the Nebraska proportion of United States Government taxes assignable to Nebraska for each year 1917 to 1920 inclusive, and the Hire of Equipment and Joint Facility Rents
215 for all years, the "Net Earnings in Nebraska" for the 5 year period ended December 31, 1921, would be:

1917	$8,559,773.4
1918	7,185,038.7
1919	7,336,038.7
1920	1,960,994.4
1921	9,870,987.0
Average	$6,982,743.6

I, E. F. Morgan, Assistant Auditor of the Chicago, Burlington & Quincy Railroad Company, do solemnly swear that the above statement is true and correct to the best of my knowledge and belief.

E. F. Morgan, Assistant Auditor.

STATE OF NEBRASKA,
County of Lancaster:

Subscribed in my presence and sworn to before me this 25th day of July, 1922. Hazel Nigh, Notary Public. (Seal.)

216 Q. Why do you select the five year period, Mr. Morgan?
A. One reason is this: The Bureau of Internal Revenue of the Federal Government, in one of the exhibits, r-quired in the capital stock tax return, which they use as a factor in determining the value of the capital stock of any corporation, they require each corporation to show in a tabulation, the net income for the five years previous, and also an average of those five years.
Q. And you have simply used that as the standard in this exhibit?
A. Yes sir.

Mr. Clark: That is all with this witness on behalf of the Burlington.
Mr. Osborne: Have you any questions?
Mr. Lamaster: There probably will be later on.

Witness excused temporarily.

217 Mr. Magaw: I have another question of Mr. Scribner.

A. W. SCRIBNER, a witness heretofore called and duly sworn on behalf of the Complainants, was recalled and testified as follows:

Examined by Mr. Magaw:

Q. Mr. Scribner, referring to your direct examination about the statements on Form G, filed with the Commission, did you also file with the Tax Commissioner, for the Union Pacific Railroad Company, a statement known as Form 9?
A. Yes sir.

Mr. Magaw: We would like to have it stipulated that the reporter can copy Form 9 into the record and we now offer it in evidence.

Mr. Osborne: No objection.

Which said document, so offered and received in evidence, is in the words and figures as follows:

218 **Form 9.**

Entire Gross Earnings of the Union Pacific Railroad Company R. R. Co.

From Operation for the whole system.....	$114,783,970.55
Income from operation.....	30,759,313.43
Income	17,009,612.70
Gross Earnings in Nebraska from Operation....	43,119,988.61
Income from operation in Nebraska.....	12,850,355.67
Income from other sources in Nebraska.....	Cannot state.

Income Account, Calendar Year 1921.

Operating Income:		
Railway Operating Revenues		114,783,970.3
Railway Operating Expenses		77,612,030.1
Net Revenue from Railway Operations		37,171,940.4
Railway Tax Accruals	6,394,853.49	
Uncollectible Railway Revenues	17,773.53	
		6,412,627.0
Railway Operating Income		30,759,313.4
Revenues from Miscellaneous Operations	49,574.14	
Expenses of Miscellaneous Operations	6,016.15	
Net Revenues from Miscellaneous Operations		43,557.9
Taxes on Miscellaneous Operating Property		34,682.1
Miscellaneous Operating Income		8,875.7
Total Operating Income		30,768,189.1
Non-operating Income:		
Hire of Equipment	669,973.80	
Joint Facility Rent Income	635,433.63	
Income from Lease of Road	19,624.52	
Miscellaneous Rent Income	159,116.00	
Miscellaneous Non-operating Physical property	119.67	
Separately Operated Property-Profit	51,092.51	
Dividends on Stock Owned	6,844,342.00	
Income on Funded Securities	7,850,394.72	
Income on Unfunded Securities and Accounts	747,919.07	
Miscellaneous Income	31,836.12	
Total Non-operating Income		17,009,612.
Gross Income		47,777,801.

219 Deductions from Gross Income:

Hire of Equipment	3,334,258.96	
Joint Facility Rent	378,552.23	
Miscellaneous Rents	1,793.00	
Miscellaneous Tax Accruals	4,528.06	
Interest on Funded Debt	9,605,940.20	
Interest on Unfunded Debt	45,660.08	
Miscellaneous Income Charges	99,544.83	
Total Deductions from Gross Income		13,470,277.36
Net Income		34,307,524.50
Dividends paid during the year:		
4% on Preferred Stock	3,981,740.00	
10% on Common Stock	22,229,160.00	
Income Balance Transferred to Credit of Profit and Loss		8,096,624.50

Entire Gross Earnings of Such Railroads Company in Nebraska for Each and Every Month for the Last Calendar Year Ending the 31st Day of December.

January	$3,052,613.25
February	2,550,178.96
March	3,210,248.38
April	3,016,777.56
May	2,963,935.93
June	3,243,780.31
July	3,499,143.77
August	4,616,021.31
September	4,871,221.16
October	5,307,770.07
November	3,596,176.15
December	3,192,121.76
Total	$43,119,998.61

220 Q. Did you afterwards file a revised statement on Form 9 with the Tax Commissioner?

A. Yes sir.

Q. For the Union Pacific?

A. Yes sir.

Mr. Magaw: We would like to have it stipulated that the revised statement on Form 9 can be introduced in evidence and supplied by the reporter.

Mr. Osborne: No objection.

Which said document, so offered and received in evidence, is in the words and figures as follows:

221 **Revised Statement on Form "9."**

Entire Gross Earnings of the Union Pacific Railroad Company.

	R. R. Co.
From operation for the whole system	$114,783,970
Income from operation	30,768,189
Income	17,609,612
Gross earnings in Nebraska from operations	43,119,988
Income from operation in Nebraska	10,481,151
Income from other sources in Nebraska	Cannot state

Income Account, Calendar Year 1921.

Operating Income:		
Railway Operating Revenues		114,783,970
Railway Operating Expenses		77,612,030
Net Revenue from Railway Operations		37,171,940
Railway Tax Accruals	6,394,853.49	
Uncollectible Railway Revenues	17,773.53	
		6,412,627
Railway Operating Income		30,759,313
Revenues from Miscellaneous Operations	49,574.14	
Expenses of Miscellaneous Operations	6,016.15	
Net Revenue from Miscellaneous Operations		43,557
Taxes on Miscellaneous Operating Property		34,682
Miscellaneous Operating Income		8,573
Total Operating Income		30,768,189
Non-operating Income:		
Hire of Equipment	669,973.80	
Joint Facility Rent Income	635,433.63	
Income from Lease of Road	19,624.52	
Miscellaneous Rent Income	159,116.00	
Miscellaneous Non-operating Physical property	119.67	

Separately Operated Property-Profit	51,092.51	
Dividends on Stock Owned	6,844,342.00	
Income from Funded Securities	7,850,394.72	
Income from Unfunded Securities and Accounts	747,919.07	
Miscellaneous Income	31,836.12	
Total Non-operating Income		17,009,612.70
Gross Income		47,777,801.86
222 Deductions from Gross Income:		
Hire of Equipment	3,334,258.96	
Joint Facility Rents	378,552.23	
Miscellaneous Rents	1,793.00	
Miscellaneous Tax Accruals	4,528.06	
Interest on Funded Debt	9,605,940.20	
Interest on Unfunded Debt	45,660.03	
Miscellaneous Income Charges	99,544.83	
Total Deductions from Gross Income		13,470,277.36
Net Income		34,307,524.50
Dividends Paid during the year:		
4% on Preferred Stock	3,981,740.00	
10% on Common Stock	22,229,160.00	
Income Balance Transferred to Credit of Profit and Loss		8,096,624.50

Entire Gross Earnings of Such Railroad Company in Nebraska for Each and Every Month for the Calendar Year Ending the 31st Day of December.

January	$3,052,613.25
February	2,550,178.96
March	3,210,248.38
April	3,016,777.56
May	2,963,935.93
June	3,243,780.31
July	3,499,143.77
August	4,616,021.31
September	4,871,221.16
October	5,307,770.07
November	3,596,176.15
December	3,192,121.76
Total	$43,119,988.61

223 Q. Did you file a statement, Form 9, for the St. Joseph & Grand Island Railway Company?

A. Yes sir, this morning.

Q. Is this Exhibit "10" a copy of that statement?

A. It is.

Q. I show you the statement marked Exhibit "10," and ask you whether that is a correct copy of the original statement, Form 9, filed with the Tax Commissioner for the St. Joseph & Grand Island Railway Company?

A. Of the original revised statement of Form 9, yes sir.

Mr. Magaw: We now offer this Exhibit "10" in evidence.

Which said document, marked Exhibit "10," so offered and received in evidence is in the words and figures as follows:

224 **Exhibit "10" to Scribner's Testimony.**

Entire Gross Earnings of the St. Joseph and Grand Island Railway Company. R. R. Co.

From operation for the whole system	$3,419,345.
Income from operation	141,069.
Income from other sources	.....
Gross earnings in Nebraska from operation	1,769,971.
Income from operation in Nebraska	218,817.
Income from other sources in Nebraska	.....

Distribution Made of Such Income.

Entire Gross Earnings of Such Railroad Company in Nebraska for Each and Every Month for the Last Calendar Year, Ending the 31st Day of December.

January	$131,478.
February	122,514.
March	132,216.
April	131,576.
May	125,087.
June	123,626.
July	145,947.
August	150,264.
September	190,552.
October	238,339.
November	142,638.
December	135,728.

225 Q. Had you filed an original statement, for the St. Joseph & Grand Island Railway Company, or is this the only one filed?

A. We had filed an original statement, yes sir.

Mr. Magaw: I would like to have it stipulated that the original statement filed with the Tax Commissioner, Form 9, can be received in evidence, and the reporter make a copy thereof from the original.

Mr. Osborne: No objection.

Which document, so offered and received in evidence, is in words and figures as follows:

226 **Original Statement Form "9."**

Entire Gross Earnings of the St. Joseph and Grand Island Railway Co.

From operating for the whole system	$3,355,356.87
Income from operation	69,559.13
Income	
Gross earnings in Nebraska from operation	$1,739,941.61
Income from operation in Nebraska	212,526.80
Income from other sources in Nebraska	

Distribution Made of Such Income.

Entire Gross Earning of Such Railroad Company in Nebraska for Each and Every Month for the Last Calendar Year, Ending the 31st Day of December.

January	$129,666.60
February	120,754.33
March	130,455.53
April	129,691.74
May	123,224.70
June	121,852.02
July	144,046.21
August	148,413.36
September	188,555.93
October	236,478.83
November	140,226.63
December	126,575.73

227 R. D. POLLARD, called as a witness on behalf of the complainants, and after being duly sworn testified as follows:

Examined by Mr. Clark:

Q. Mr. Pollard what is your position with the Chicago, Burlington & Quincy Railroad Company, the complainant?

A. Tax Agent.

Q. In charge of Nebraska?

A. Yes sir.

Q. Have you prepared a statement of property locally assessed which is not within the jurisdiction of this Board for assessment purposes?

A. Yes sir.

Q. For original assessment purposes?

A. Yes sir.
Q. Have you that statement there?
A. Yes sir.
Q. Have you more than one copy of it?
A. No sir, but I can make one soon. It is very short.
Q. Then just read it into the record, will you?
A. "Plattsmouth shop buildings, $161,502.00. Plattsmouth shop tools and machinery, $69,700.00. Havelock shop buildings, $751,920.00. Havelock shop tools and machinery—and I think there is a mule or an auto there besides—that is $364,515.00. McCook tools and machinery, $30,000.00. Burnham shop yards buildings, $32,754.00. Feed, horses, mules and so forth at Burnham, $6,465.00. Omaha office furniture in headquarters and city ticket office, $10,705.00. Omaha headquarters land and building, $137,
228 000.00. A total of $1,564,861.00.

Q. That is offered for the purpose of applying it to the ascertainment of net operating income of the Burlington?
A. Yes sir.
Q. For the year 1921?
A. Yes sir.

Mr. Clark: That is all. On behalf of the Burlington I wish to state that the evidence of *of* Mr. Morgan and Mr. Pollard, together with such cross examination as may be made on their evidence to this time, is offered for the exclusive use of the Burlington in ascertaining its net return.

Cross-examination.

By Mr. Lamaster:

Q. May I ask you, Mr. Pollard: What is the force of these figures? I don't quite get it.
A. Under the statu-es of this state certain property that is used in the operation of the road is assessed by the County Assessor; for instance, our shops at Havelock, our shops at Plattsmouth, and the headquarters at Omaha; they are used in the operation of the road and assessed by the assessors of the counties.
Q. Are these included in your former figures?

Mr. Clark: The next exhibit I will offer will show you the why of this.

Mr. Lamaster: All right.
229 Mr. Clark: The record to date does not disclose.

Witness excused.

A. W. Scribner, a witness heretofore and duly sworn on behalf of complainants, was recalled and testified as follows:

Examined by Mr. Clark:

Q. Mr. Scribner, you are still with the Union Pacific?
A. Yes sir.

Q. You may look at Exhibit "4" and state how you secured it, from whom, and the use to which it is applied, if any.

A. This is a statement sent to me by Mr. Osborne, State Tax Commissioner, headed "Formula used by State Board of Equalization in determining railroad values for 1922 in Nebraska."

(Cross-examination, A. W. Scribner:)

Mr. Clark: We now offer in evidence Exhibit "4" in behalf of each of the railroads complaining here, so far as it is applicable to each of them.

Mr. Osborne: I will say that I have no objection as a member of this Board for the formula going into the record, but the resolution itself adopted by the Board is the best evidence in determining the method employed by the Board in fixing the value of the railroads. You are stealing my thunder, Mr. Clark.

230 (Direct examination, A. W. Scribner:)

Mr. Clark: It is a matter of public record, isn't it?

Mr. Osborne: It is not a public record. The exhibit itself is not a matter of record in any department of the State.

Which said document, marked Exhibit "4," so offered and received in evidence, is in the words and figures as follows:

231 **Exhibit "4" to Scribner's Testimony.**

Formula Used by State Board of Equalization in Determining Railroad Values for 1922 in Nebraska.

C., B. & Q.

Net earnings in Nebraska	$13,739,401.04
Assessment for 1921 as fixed by State Board	131,755,725.00
6% of which is	7,905,343.50
This deduction from net earnings leaves	5,834,057.54
Added to $131,755,725 gives	137,589,782.00

Or total assessment for 1922.

Union Pacific.

Net earnings in Nebraska	$12,850,355.67
Assessment for 1921 as fixed by State Board	90,861,120.00
6% of which is	5,861,667.20
This deduction from net earnings leaves	7,398,688.47
Added to $90,861,120.00 leaves	98,259,808.00

Or total assessment for 1922.

M. & O.

Net earnings in Nebraska	$483,701.17 deficit.
Assessment for 1921 as fixed by State Board	13,698,855.00
6% of which is	821,931.30
This added to deficit gives	1,305,632.47
This deducted from assessment gives	12,393,223.00
Or assessment for 1922.	

Rock Island.

Net earnings in Nebraska	$118,480.83 deficit.
Assessment for 1921 as fixed by State Board	11,502,985.00
6% of which is	690,179.10
This added to deficit gives	808,659.93
This deducted from $11,502,985 gives	10,694,326.00
Or assessment for 1922.	

Missouri Pacific.

Net earnings in Nebraska	$441,747.68 deficit.
Assessment	12,806,341.00
6% of which is	768,380.46
This added to deficit gives	1,210,128.14
This deducted from $12,806,341 gives	11,596,213.00
Or assessment for 1922.	

St. J. & G. I. R. R.

Net earnings in Nebraska	$318,531.00
Assessment for 1921 as fixed by State Board	3,971,895.00
6% of which is	238,313.00
This deducted from net earnings gives	80,218.00
Added to 1921 assessment gives	4,052,113.00

232 Mr. Clark: Now we offer in evidence Exhibit "11" subject to comparison, this being the resolution adopted by the Board fixing our values, and so forth.

Mr. Osborne: Yes.

Which said document, marked Exhibit "11," so offered and received in evidence, is in words and figures as follows:

233 **Exhibit "11" to Scribner's Testimony.**

Office of the Governor, Lincoln, Nebraska.

June 15th, 1922

The State Board of Equalization reconvened at the office of the Governor at 10:30 a. m., all members present, the Governor in his chair.

The question of railroad values for the year 1922 was then discussed by the Board, and the following resolution was unanimously adopted;

Resolved: That we, the State Board of Equalization and assessment, in regular session held for the purpose of valuing and assessing the railroads in the State of Nebraska, for the purpose of taxation of their property in the said state, and having given due and full consideration to the returns furnished said Board by the several railroad companies, and having taken into consideration the main track, side track, spur track, ware-house track, road bed, right of way and depot grounds, and all machinery, rolling stock, telegraph lines and instruments connected therewith, all material on hand, and supplies, monies, credits, franchises, and all other property of said railroad companies, and having taken into consideration the gross and net earnings of the said railroad, the total amount expended in operation and maintenance, the dividends paid, the capital stock of each system or road, and the market value thereof, and the total amount of secured and unsecured indebtedness, and from all the information we are able to obtain, do hereby ascertain, appraise, fix and assess for the purpose of general taxation, the full actual value of the property of each of the several systems or companies in the State of Nebraska, as hereinafter recite-.

234 Railroad.	Miles of track.	Total actual valuation.
Chicago, Burlington & Quincy	2,861.60	$137,589,782.00
Union Pacific	1,225.135	98,259,808.00
Chicago & Northwestern	1,062.56	.....
Chicago & St. Paul, Minneapolis & Omaha	303.005	12,392,905.00
Chicago, Rock Island & Pacific	245.51	10,694,409.00
Missouri Pacific	347.88	11,596,281.00
Kansas City & Northwestern	20.65	487,855.00
St. Joe & G. I.	112.63	4,052,427.00
Mason City & Ft. Dodge	.....	540,000.00
Omaha Lincoln R. R. & Light Co.	6.63	99,450.00
Omaha Bridge and Terminal R. R.	1.31	648,000.00
Omaha Lincoln and Beatrice R. R.	6.12	91,800.00
Omaha & outhern Interurban R. R.	6.00	90,000.00
Illinois Central	.....	54,000.00
Wabash Railway	.....	54,000.00
Chicago, Milwaukee & St. Paul R. R.	.....	108,000.00
Atchinson, Topeka & Sante Fe	.....	15,000.00
North Platte Railway Co.	31.12	376,552.00

The valuations of railroads as fixed and assessed as above set forth, were distributed and apportioned between the main lines, and branches of the several railroad companies, and the value per mile and the total valuation of each line was fixed as shown in the following table:

Railroad and branches. Chicago, Burlington & Quincy:	Miles of track.	Actual valuation, per mile.	Total actual valuation.
Ashland to Schuyler	49.71	$34,820	$1,730,902
Ashland to South Sioux City	103.07	40,460	4,170,212
Aurora to Lester	64.06	29,185	1,869,591
Aurora to Palmer	35.10	32,000	1,123,200
Crete to Wymore	42.78	46,100	1,972,158
Colorado State line to Alliance	86.69	29,185	2,530,048
Culbertson Jt. to Imperial	49.17	23,545	1,157,708
Dewitt to Holdredge Junction	136.46	39,330	5,366,972
Edgar to Superior	26.54	23,545	624,884
Fairmont to Chester	45.16	29,180	1,317,769
Ft. Crook line	4.47	23,550	105,268
Greeley Center to Erickson	18.32	23,545	431,344
Holdredge Jt. to Colorado State Line via Curtis	161.43	40,460	6,531,458
Kenesaw to Kearney	24.19	29,185	705,985
Lincoln to Cobb Junction	7.23	29,180	210,971
Lincoln to Columbus via Germantown	69.67	38,770	2,701,106
McCool Jt. to K. C. & O. Jt.	43.74	29,180	1,276,333
Nebraska City to Lincoln	57.61	40,460	2,330,901
Nebraska City to Salem	46.77	29,180	1,364,749
Nemaha City to Beatrice	64.78	29,180	1,890,280
Northport to Wyoming St. Line	54.19	29,180	1,581,264
Odell Jt. to Kansas State Line	6.04	29,180	176,247
Oreapolis to Ashland via Omaha	47.71	91,210	4,351,629

235 Railroad and branches.	Miles of track.	Actual valuation, per mile.	Total actual valuation.
Orleans Jt. to Kansas St. Line	59.61	$29,180	$1,739,420
Palmer to Burwell	69.03	32,000	2,208,960
Palmer to Sargent	73.29	32,000	2,345,280
Plattsmouth to Colo. St. Line	346.22	91,215	33,222,327
Republican City Jt. to Kansas State Line	8.50	23,550	200,175
Rulo to Oxford Jt. voa Red Cloud	235.66	60,200	14,186,732
So. Sioux City to O'Neill	128.14	29,180	3,739,125
Rulo to Kansas State Line	8.19	29,180	238,984
Stromsburg to Alma	149.13	29,180	4,351,613
Table Rock to So. Dakota State Line via Milford	508.89	58,510	29,775,154
Chalco to Yutan	12.05	5,065	61,033
Total	.....	2,861,60	137,589,782
Union Pacific Railroad:			
Union Pacific Main Line	456.39	$133,155	$60,770,611
Summitt to Lane	20.50	127,305	2,609,753
O. R. & V. Branches	428.195	55,465	23,749,836
Kearney Branches	102.66	40,170	4,123,852
Central City Branches	22.03	38,755	853,773
North Platte Branch	168.01	30,675	5,153,707
Hastings & N. W.	27.35	36,500	998,276
	1,225.135	.....	98,259,782
Chicago & Northwestern	1,062.56		
Chicago, St. Paul, Minneapolis & Omaha	303.005	40,900	12,392,965

Rock Island:			
Rock Island Main Line	124.22	51,055	6,342,052
St. Joe Branch	69.79	39,510	2,757,402
Nelson Branch	51.50	30,970	1,594,955
	245.51	.....	10,694,409
Missouri Pacific:			
Kansas Line to Gilmore Jt.	92.90	40,215	3,707,823
Auburn to Webster	81.04	36,795	2,981,867
Lincoln Branch	45.20	36,795	1,663,360
Talmage to Crete	58.18	30,440	1,770,999
Kansas State Line to Prosser	71.26	20,660	1,472,232
	347.88	.....	11,596,281
236			
Kansas City & Northwestern	20.65	23,625	487,855
St. Joe & G. I.	.....	.....	.....
K. S. L. to G. L.	112.63	35,980	4,052,427
Mason City & Ft. Dodge	.....	.....	540,000
Omaha Lincoln R. R. & Light Co.	6.63	15,000	99,450
Omaha Bridge & Terminal R. R.	1.31	.....	648,000
Omaha & Southern Interurban R. R.	6.00	15,000	91,800
Omah- Lincoln & Beatrice R. R.	6.12	15,000	90,000
Illinois Central	.....	.....	54,000
Wabash Railway	.....	.....	54,000
Chicago Milwaukee & St. Paul R. R.	.....	.....	108,000
Atchinson, Topeka & Santa Fe	.....	.....	15,000
North Platte Railway Company	31.12	12,100	376,552

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FOR

FILMING

These statements are all consolidated and tabulated in this statement, Exhibit "14."

Q. What was the minimum acreage taken?

A. Usually forty acres, for the reason that smaller descriptions were ha-d to get and hard to find the assessed value of, small irregular descriptions.

Q. State to the Commission if that exhibit is a correct statement of all the data assembled in the manner which you have stated?

A. It is.

Mr. Clark: Complainants offer in evidence Exhibit "14."

Which said document, marked Exhibit "14," so offered and received in evidence, is in the words and figures as follows:

(Here follows Exhibit 14 to Scribner's Testimony, marked side folio page 249.)

250 Mr. Clark: That is all. Do you wish to ask him anything?

Mr. Lamaster: Yes, I want to ask Mr. Scribner a few questions.

Mr. Clark: Could I ask you, in your cross examinaton, if it covers the exhibits or evidence introduced for all the roads or that which only applies to the U. P., I wish you would segregate the two for the record, if you can.

Mr. Lamaster: I don't know as I could do that, Mr. Clark. I will be glad to do so if I can.

Cross-examination.

By Mr. Lamaster:

Q. Some mention was made this forenoon of taxes, Mr. Scribner, and in your statement, Form G, I notice the taxes are put at $2,609,-002.63.

A. Yes sir.

Q. Now, what kind of taxes does that include?

A. That includes State, County, School District, all local regular taxes, not special assessments. All regular taxes, State and local and the Federal taxes.

Q. What Federal taxes did you include?

A. They would be Federal income taxes and Federal capital stock taxes.

251 Q. Why did you include Federal income taxes?

A. Because they are a charge against income such as the State tax.

Q. Did you call attention to any section of the statute authorizing the deduction of Federal income taxes?

A. The blank itself says operating Expenses for Nebraska, including Taxes," and this is all taxes, of course, except special assess-

It was agreed by the Board that the fixing of the value of the Chicago and Northwestern Railroad Company be deferred until such time as the State Tax Commissioner desired to bring it again to the attention of the State Board. After, which the Board adjourned subject to the call of the State Tax Commissioner.

STATE OF NEBRASKA,
Lancaster County, ss:

It is hereby certified that the foregoing is a true and a correct copy of the record of the State Board of Equalization and Assessment, in so far as such record has to do with the fixed valuation of railroads for the year 1922.

In witness whereof: I hereunto set my hand and the seal of said State Board of Equalization and Assessment, this twenty-first day of June 1922. W. H. Osborne, State Tax Commissioner. WHO/H.

237 Mr. Clark: The complainants each now offer in evidence Exhibit "12," together with all certificates, endorsements and seals thereon, same being the bill of exceptions and transcript of record certified as of August 10th, 1921, being the hearing of this year before the State Board of Equalization and Assessment of the State of Nebraska. Now, I have a copy of the bill of exceptions here which I would like to substitute for the original and leave the original with the Board.

Mr. Osborne: Yes, if it has any bearing on the case.

Mr. Clark: Then the original is received and the copy substituted?

Mr. Osborne: Yes.

Which said bill of exceptions, marked Exhibit "12," so offered and received in evidence, is in the words and figures as follows:

(Said Ex. "12," because of its bulk, is attached hereto separately immediately following page 219 hereof.)

238 Q. Mr. Scribner, did you have data assembled showing lands mortgages in certain counties of Nebraska and parts of counties in the State?

A. Yes sir.

Q. And did you get assembled the valuation placed upon the different pieces of property by the Laon Companies and owners?

A. Yes sir.

Q. You may look at Exhibit "13" and state to the Board in manner in which the data from which this exhibit was made and how it was assembles and worked out?

A. In the first instance we sent out to all the counties which we could reach and secured lists of mortgages of lands made by loan and trust companies dated between March, 1920 and March 192- we then had the loan companies makin- these mortgages furnish the record of the owner's statement as to the value of the mortgaged lands in each instance; also the appraised value as fixed by

loan companies on the same land; then we secured from the county records the assessed valuation of each of these mortgaged appraisals for the year- 1921 and 1922. After assembling all the information so secured the result was tabulated into this statement showing by counties, the information under the headings as shown on this statement.

239 By Mr. Osborn:

Q. Did you have any difficulty in getting the assessed value of the 1922 assessment?

A. Not very much. We understood of course, that the 1922 assessment was subject to equalization by this Board, but secured from the township assessors' books and the county clerk's records the assessment of these parcels as they came in for the year 1922.

By Mr. Clark:

Q. Were you able to complete it all?

A. As to these counties—there are two or three counties where the assessor said that the assessment of this year was the same as last and in that case we entered the 1921 assessment without going to each parcel in the record to get the *the* 1922 assessment and we accepted the assessors' statement that the lands were assessed the same as the year before.

By Mr. Osborne:

Q. In all these computations you have taken the assessed returns of the assessors out in the state and not the equalized figures as is yet to be fixed by this Board?

A. Yes sir, that is it. The equalization was not commenced when these figures were taken.

By Mr. Clark:

Q. You have agents still assembling data as to the mortgages and and sales we have not been able to carry in here?

A. Yes sir.

Mr. Clark:

Q. As far as this exhibit is concerned, for the items and the counties shown here, it is correct?

A. Yes sir.

240 Q. And it represents about how many loan companies?

A. Forty or forty-one.

Q. And the lands mortgaged, what was the minimum acreage taken, twenty acres?

A. Yes, twenty acres. No small irregular tracts.

Mr. Clark: Complainants now offer in evidence Exhibit "13."

Which said document, marked Exhibit "13," so offered and received in evidence, is in the words and figures as follows:

(Here follows Exhibit 13 to Scribner's Testimony, marked side folio pages 241 and 242.)

243 By Chairman Amsberry:

Q. What years do these mortgages cover?

A. The mortgages were made between March, 1920 and March, 1922 during a two-year period.

Mr. Clark: I will say to the Board and to counsel that all of this original data is subject to your inspection in Mr. Scribner's hands. You may check any of it at any time you desire, for the purpose of testing its accuracy.

Mr. Osborne: This would not be subject to our inspection for the reason that the loan companies themselves would not permit us to inspect their books. Isn't that true?

Mr. Clark: We have their statements to us and we are permitted to use them for this purpose.

By Mr. Osborne:

Q. The figures that you have here enumerated, Mr. Scribner, are the figures from the loan companies and not from your own personal inspection?

A. From the loan companies, yes sir.

By Chairman Amsberry:

Q. Did these companies state on what per cent they were loaning?

A. They varied somewhat as to that. I think the maximum was 50%, but generally around 40.

Mr. Clark, continuing:

Q. Mr. Scribner, the Loan Companies do they require applicants to file written applications?

A. Yes sir.

Q. And in there is the value stated?

A. The value stated by the owner.

244 Q. Then what does the Loan Company do? Do they accept that value?

A. They have an appraisement made.

Q. And these two items you have produced here are the statement made in the application made by the owner, of his own value of his own land.

A. Yes sir.

Q. And the value fixed thereon by the appraiser of the Loan Company?

A. Yes sir.

By Mr. Osborne:

Q. Mr. Scribner, you aggregate total number of acres mortgages, under this statement, you show 369,541 acres?
A. Yes sir.

By Mr. Osborne:

Q. That is correct?
A. Yes sir.

By Mr. Osborne:

Q. That is quite a nominal acreage as compared to the total number of acres in the State of Nebraska, is it not?
A. It is perhaps a rather small fraction of the entire acreage of the State of Nebraska, but it is scattered very generally over the State or over the Counties named in this statement.

By Mr. Osborne:

Q. As a matter of fact, it is a good deal less than a fair average of the Counties in the State, is it not?
A. It may be.

By Mr. Osborne:

Q. And it is not representative of an average of a single County in the State of Nebraska?

Mr. Dressler: You mean as to the amount of acreage?
245 Mr. Osborne: Yes, aggregate total.

By Mr. Osborne:

Q. It does not represent the area of the average of a single county in the State of Nebraska, does it?
A. Represent the entire acreage?
Q. Yes.
A. No sir, but we have say in Wayne County——
Mr. Osborne: You are not answering my question.
A. Perhaps I don't understand it fully.

Mr. Clark: Read the question.

(Question rea-s as follows:)

Q. "It does not represent the area of the average of a single county in the State of Nebraska, does it?"
A. I am unable to answer that of-hand. Of course, the statement itself shows the number of acres involved, which can be readily compared.

—

By Mr. Clark:

Q. Before leaving Exhibit "13" I will ask you this question: In the counties shown in Exhibit "13" are there any mortgages to Loan Companies not included therein, and if so describe how and why. That is, to other Loan Companies than the forty-one that reported?

A. There are, if I understand your question—investigations were made as to the mortgages on other lands than those included in this statement, but we were unable to get the information as to these mortgages because it was claimed that the records were not in the State—of the owner's valuation and the appraisement.

246 By Mr. Clark:

Q. And two companies refused, the Banker's Life and the Federal Land Bank?

A. Yes two refused.

The Chairman: We will take an adjournment now until two o'clock P. M.

Whereupon an adjournment was taken until two o'clock P. M. the same day, Tuesday, July 25th, 1922.

247 Tuesday, July 25th, 1922, two o'clock P. M., the Board met and hearing resumed pursuant to adjournment. Present as before.

A. W. SCRIBNER, a witness heretofore called and duly sworn on behalf of Complainants, resumed the stand and testified as follows:

Examined by Mr. Clark:

Q. There has been no change in your occupation since before luncheon?

A. No, I am still on the same job.

Q. You may look at Exhibit "14" and state to the Board the process which resulted in Exhibit "14."

A. We had a list of land sales of lands conveyed by warranty deeds between March 1st 1921 and April 1st, 1922, taken in fifty-three Nebraska Counties.

Q. Now, the counties that were not taken, in the territory of what railroad are they?

A. The counties that do not appear in this statement are Northwestern counties.

Q. They were assigned to the Northwestern to produce and they concluded to wait until the 1922 equalization was complete?

A. Yes sir, and we secured from the records the assessed value for the years 1921 and 1922 of the same parcels conveyed.

248 For a number of counties we also secured the 1920 assessed value, but not for all of them. The statement itself shows these where we had the 1920 assessment and where we did not.

Banne
Blaine
Box E

Buffal
Cass .
Chase

Cheye
Colfax
Custer

Dawso
Deuel
Dundy

Frank
Fronti
Furna

Gage
Garde
Garfie

ments which are not designated as taxes in the Interstate Commerce Commission account.

Q. How much of this sum mentioned is income taxes paid the Federal government?

A. The Federal tax?

Q. Yes.

A. I couldn't tell you exactly how much as between Federal income and Federal Capital stock; most of it is Federal income, and the Federal taxes amount to nearly a million dollars as apportioned to Nebraska.

Q. Would you mind getting me that figure?

A. The exact figure?

A. The exact figures of the income tax and the stock tax, both.

Q. We could do it right here because it is the difference between the figures shown as taxes on the revised statement and the figures shown as taxes on the original figures.

252 Q. I would like to have them separately stated?

A. I can get them in Omaha.

Q. Now, these figures are all worked up on the basis of the Interstate Commerce Commission accounting plan I presume, except as modified by the directions given by the State Railway Commission?

A. Yes sir.

Q. I notice here you mention the fact that the State Railway Commission has given some directions. In what particulars do the State directions vary from the Interstate Commerce Commission rules?

A. The Interstate Commerce Commission rules do not prescribe any formula, as I understand it, for apport-ing earnings as between States, that is, on interstate shipments and on interstate passenger traffic. The Interstate Commerce Commission prescribes the rules for figuring the entire revenue gross and net, but when it comes to dividing between States the Nebraska Railway Commission prescribes the formula.

Q. State for the record what the formula is for making the division?

A. I haven't it in mind, but you will find a copy I think in the report to the Nebraska Railway Commission.

Q. State that if you will.

A. Shall I read this?

253 Q. No, but it is all on a mileage pro rate basis, is it not?

A. On a mileage pro rate basis of earnings. Expenses are apportioned in a somewhat different manner.

Q. Now, that division on the basis laid down by the Nebraska State Railway Commission does not in any way—it is not, in any way, inconsistent with the rules of the Interstate Commerce Commission, the Interstate Commerce Commission simply has not provided any rules for divisions among states?

A. I think it has not interested itself in that.

Q. I wish you would state, in general, what the method of division is as to expenses. Take first your general expenses.

A. This report to the Nebraska State Railway Commission gives

the formula for expenses, headed "Instructions for Apportionment of Operating Expenses to State of Nebraska." "Nebraska's proportion of such Operating Expenses called for in items on pages 602 to 607 as can not be positively allocated, for the purpose of this report should be charged on the basis of the train mileage within Nebraska, as compared with the train mileage on the entire system."

Q. And you have followed that method in making up your report?

254 A. Our Auditor so states. The report is made by our Auditor and in it he says: "In compliance with the requirements of the Railway Commission of the State of Nebraska, Union Pacific Railroad Company furnishes statements of Earnings and Expenses in that State, in the compilation of which it has apportioned Revenues from Interstate Traffic and Expenses incurred in connection with such traffic to Nebraska and other States, on basis prescribed by the said Commission. For the purpose of this report, Revenues, Expenses, Taxes, Equipment Rents, Joint Facility Rents, and Uncollectible Railway Revenue were apportioned as between Nebraska and other States, in accordance with the formulas prescribed by that Commission." That is the Nebraska Railway Commission.

Q. Now, what dividends has your Company declared or did it declare during the year 1921?

A. That is shown in the report I think.

Q. The total amount is shown here but not separate dividends I think.

A. My understanding is it was ten per cent during the year on common stock and four per cent on preferred stock.

Q. Now, in addition to the dividends paid did your Com-
255 pany accrue any surplus during the year 1921? If so, how much?

A. I am not familiar with that subject. At least I could not answer it offhand without reference to the record. The figures on page 300 of the report to the Nebraska Railway Commission for the year ended December 31, 1921, appear to indicate that there was a credit to profit and loss account for the entire railroad of about $16,700,000.00.

Q. Let me ask you if this is not the figure that your Balance passed to Surplus, during the year 1921, was $8,096,624.50? (Indicating.)

A. That is probably correct. They would be correct figures because it is from the official record of the Company. That is for the entire railroad.

Mr. Magaw: Right there, shouldn't your statement, Mr. Scribner, about the sixteen millions, shouldn't that be withdrawn by you?

A. Yes.

Mr. Lamaster: Yes, that is satisfactory. The other figure is correct I think.

Q. You referred to and offered in evidence Exhibit "3," Real Estate, a list of real estate giving the values. You do not mean to say that was omitted property, do you, or what was the purpose of putting this in?

A. It was to show that all this railroad property which is
256 subject to taxation in Nebraska under the revenue law of Ne-
braska, the State Board of Equalization assesses all except
this property which is listed here. The property listed here is as-
sessed by local assessors.

Q. Hadn't that already been done prior to this time? I do not
understand the purpose of your putting that in at this time?

Mr. Osborne: I think the purpose there is to show the formula I
gave them, which was used by the Board, did not take into account
the value of the property that was locally assessed.

A. In other words, that while this property, particularly shops
and headquarters and a good deal of this property which is rented
and the rents credited to earnings, participates in making the earn-
ings used in that formula——

Mr. Lamaster: I understand.

Q. Referring to your Exhibit "13," how many Loan companies
did you say were consulted before this was made up?

A. That represents the answers from forty or forty-one Loan
Companies.

Q. Those are the largest companies doing business in the State,
are they?

A. Yes sir.

257 Q. This represents a value of about $109 an acre, doesn't
it, in the amount of appraisal by the Companies? That is an
average of about $109 per acre?

A. I haven't divided the valuation. You mean——

Q. The appraisal by the Loan Companies as divided by the num-
ber of acres?

A. It would be about that. I couldn't say exactly.

Q. In your Exhibit "14" you refer to sales between the 1st day of
March, 1921, and the 1st day of April, 1922.

A. Yes sir.

Q. Now, did you examine to see whether or not those sales were
made in pursuance of contracts made sometime previous?

A. It was my instructions to the parties who gathered the infor-
mation to use only what appeared to be, as far as they could see by
the record, bona fide sales between these dates.

Q. Well, the conveyances made in pursuance of contracts dated a
considerable period before would be bona fide sales?

A. If that was shown in the conveyance itself they were not taken.

Q. Ordinarily those are not shown?

A. Perhaps not.

Q. A contract might be made in 1920 and not consummated
258 until 1921 or 1922?

A. Some of them might be ten years old.

Q. As a matter of fact the great volume of dealing in real estate
in Nebraska was during the years 1919 and 1918, wasn't it?

A. I believe so.

Q. Isn't it true that a great portion of your transfers here show sales consummated in 1918 and 1919?

A. I couldn't say exactly.

Q. Isn't it a fact there wasn't practically any movement in real estate during the year 1921, except real estate that was turned over to mortgagees or was sold under foreclosure or other judicial proceedings; that there was very little, if any, real estate transferred where the sale was actually made and the deal made in the year 1921?

A. As to that I can only repeat that my instructions to the parties gathering this information were to take what was apparently, as far as they could learn, bona fide sales within this time, and I have seen quite a number of newspaper reports rather recently showing that a good deal of land is still being sold and as the writers seem to think at an even higher price than it was during what they called the "boom period."

259 Q. Have you investigated as to any of these sales to find out whether or not they were made in pursuance of contracts dated previously?

A. Our people were instructed to look after that and I assume they did that.

Q. In most cases the contract does not appeal of record?

A. It may or may not.

Q. In most cases it does not. Isn't that true? In most instances, although the contract is in writing, as a rule they do not put the contract on record?

A. I am afraid you are asking me to testify from information which is pretty meagre on my part. I can only certify as to the instructions to the parties who gathered this. My own personal knowledge is quite indefinite as to that matter.

Q. Did they report to you any sales made in pursuance of contracts entered into some time previous to the sale?

A. They did not. They were supposed not to do that if they knew of it.

Q. But as far as your records are concerned they are absolutely silent as to when these sales originated? That is to say, when the contract for sale was originally made?

A. As far as our record goes they simply show what appears on the record.

260 Q. Where a sale was made from "A" to "B" and then subsequently conveyed back from "B" to "A," was there any note made of that kind of a transaction?

A. Anything that appeared that way, whether a closing up of a sale or a re-transfer to the party who sold showing that the land was taken back, they were instructed not to take.

Q. Did they report instances of that kind?

A. They would occasionally find one in the record that was simply a cleaning-up transaction and not a sale and my instructions were to take nothing but what appeared as bona fide as far as they could learn.

Q. Those were bona fide sales?

A. If they showed anything of that kind they did not take the
Q. What I wish to know is: Do your original work sheets, fro
which this exhibit was compiled, show how many of these cases a
peared and how many they left out on that account?
A. They do not, because when they came to a case of that kin
they passed it up.
Q. Without making any note of it?
A. And they made no note of it.

By Mr. Clark:

Q. The memoranda they made, their original cards, are all su
ject to the inspection of this Board in any way they wish to u
them?
261 A. We have the original cards from which these we
taken.

Mr. Lamaster: Mr. Clark, we have made, in connection with t
Northwestern case, a detailed study of the conveyances in Cumi
County. Now, those are not tabulated yet so I can't give you a for
Mr. Clark: We haven't got Cuming in here yet.
Mr. Lamaster: But I understood this was put in for all the road
Mr. Clark: Yes.
Mr. Lamaster: Before this matter is fully submitted I will ha
those tabulated and I want to put in that tabulation showing t
number of conveyances in that county and the number that w
made in pursuance of prior contracts.
Mr. Dressler: A study for one county?
Mr. Lamaster: A study of that kind for one county only.
Mr. Dressler: For what period?
Mr. Lamaster: It covers substantially the same period that y
have here, as I recollect it.
Mr. Dressler: How did you get that data?
Mr. Lamaster: That is gotten at by personal investigation, i
quiry from the grantors, grantees and from the agents who made t
deals and bankers who held the contracts, and so forth.
Mr. Dressler: Is that the trump car- you have in the
262 fense of my lawsuit?
Mr. Lamaster: Yes sir, that is one of the lines of defen
I think that is all I have to ask Mr. Scribner.

Witness excused.

Which said document, so offered and received in evidence, is
the words and figures as follows:

Exhibit 14½.

"STATE OF NEBRASKA,
County of Lancaster, ss:

Harry W. Scott, being first duly sworn, on oath says he is dep
tax commissioner of the State of Nebraska and has held such o
for more than one year last past; that in connection with the

of Chicago & North Western Railway Company v. W. H. Osborne, Jr. et al. and the suit of Chicago, St. Paul, Minneapolis & Omaha Railway Company v. W. H. Osborne, Jr. et al., now pending in the District Court of the United States for the District of Nebraska, this affiant assisted in making a careful study of rural real estate values in a number of counties in Nebraska traversed by the lines of the said plaintiff railway companies; that in Cuming County, Nebraska, affiant assisted in making a particularly careful study of
263 rural real estate values and rural real estate transfers, especially transfers listed in the showings filed by the said companies in said suits; and that in pursuance of said studies affidavits were received from a large number of residents of Cuming County.

A summary of each of the affidavits which show two or more conveyances, or show definite listings for sale, or definite offers indicating value, or giving definite expressions of the owners of such real estate, or of definite expressions of value of those who are qualified to testify as to real estate values in said county, is given below. Conveyances not made in the usual course of business, or made between relatives, or those of small or fractional tracts, are not included herein. Legal descriptions are omitted. Record book and page are stated. All of the affidavits refer to Cuming county land.

Fred Thietje, real estate dealer, states that from June 1 to December 1, 1921, real estate in Cuming County fell at least twenty-five per cent; that in 1919, John Clatanoff was offered $325 per acre for eighty acres and that $125 per acre is the best offer now obtainable. Affidavit dated December 1, 1921.

F. C. Evans, real estate dealer, in that business twenty-seven years, states that since 1919 real estate in Cuming county has depreciated at least fifty per cent; that during the past year he appraised several tracts of land for inheritance tax assessment; that such appraisals ran from $100 to $175 per acre, which he considers a fair value for Cuming County real estate on April 1, 1921. Affidavit dated December 2, 1921.

264 Paul Kase states that on September 24, 1919, he sold 78 acres for $23,400; that the same was reconveyed (Book 25, page 561) January 21, 1920, as purchaser would not complete transaction; that he is now anxious to sell said real estate for $11,700. Affidavit dated December 3, 1921.

Henry Behrens, banker at Beemer, states that in August, 1919, on behalf of one of his customers he offered to Rudolph Brazda $275 per acre for 390¾ acres, which offer was declined; that the land was sold at public auction in partition action on November 26, 1921 for $147 per acre. Affidavit dated December 1, 1921.

Wm. A. Smith, banker at Beemer, states that on the 14th day of February, 1920, he sold 80 acres for $23,000, sale being made in pursuance of a contract made on December 19, 1919; that on May 14, 1921, his grantee contracted to sell said land for $15,000, or $8,000 less than he (W. A. Smith) received; that said transaction is representative of the general decline in real estate values during

the past year. (Book 26 of Deeds, page 308.) Affidavit d
December 1, 1921.

Henry Gentrup states that one-half section was sold in 191
$112,000, only a portion of which was conveyed to the purch
and that was afterwards reconveyed to the grantor; that on Ma
21, 1921, he (Henry Gentrup) bought the same land for $80,0
that the land has continued to decrease in price and that if he w
now purchasing he would not pay as much for it as when he bo
it. (Book 26, pages 697, 698.) Affidavit dated December 3, 19

John Cerny states that on March 1, 1920, in pursuance o
written contract dated June 18, 1919, he sold 160 acres for $40,0
that on April 1, 1921, the fair market value did not exceed $31,0
(Book 25, page 329.) Affidavit dated December 14, 1921.

Adolph Behrens states that on January 3, 1920, he purchased
acres of land in pursuance of a written contract made in June, 19
for $14,800; that the fair market value thereof on April 1, 19
was not to exceed seventy per cent of said amount. (Book 25, p
664.) Affidavit dated December 14, 1921.

Rudolph Rhode states that on February 26, 1921, he purcha
80 acres for $18,000; that on April 1, 1921, the fair market v
thereof was not to exceed $12,000; that owing to the fact t
265 the land lay directly across the road from his home ca
him to pay more than the ordinary purchaser would h
paid therefor. (Book 28, page 113.) Affidavit dated December
1921.

Wm. Throener states that in pursuance of a written contract m
in July, 1919, he purchased on February 21, 1920, a quarter sec
of land for $59,280; that the fair market value of said land on A
1, 1921, was not to exceed $35,000. (Book 25, page 592.) Affi
dated December 14, 1921.

Richard H. Holsten states that in pursuance of a written cont
dated July 2, 1919, he purchased 80 acres on March 1, 1920
$23,450; that the purchase included other lands and that the p
chase price was averaged making the amount above mentioned s
what too high for the land described in the deed; that the f
market value of the 80 acres mentioned on April 1, 1921 would
exceed sixty-five per cent of said sum. (Book 25, page 617.) A
davit dated December 14, 1921.

Richard H. Holsten states that in pursuance of a written cont
dated July 2, 1919, he purchased on February 28, 1920, 80 acres
$22,800; that the fair market value of said tract on April 1, 19
would not exceed sixty-five per cent of the sum named. (Book
page 626.) Affidavit dated December 14, 1921.

Charles Hrabek states that in pursuance of a written contract d
July 12, 1919, he purchased on February 28, 1920, 80 acres
$21,060; that on April 1, 1921, the fair market value thereof w
not exceed sixty-five per cent of said purchase price. (Book
page 628.) Affidavit dated December 14, 1921.

Charles Hrabek states that in pursuance of a written cont
dated August 11, 1919, he sold on March 1, 1920, 80 acres of l
for $24,048; that on April 1, 1921, the fair market value th

ould not exceed sixty-five per cent of said purchase price. (Book
5, page 629.) Affidavit dated December 14, 1921.

Walter Reeson states that on January 1, 1920, he sold 160 acres
or $55,407 in pursuance of a written contract dated June 28, 1919;
hat owing to the fact that the grantee owned adjoining land it in-
uced him to pay considerably more than any other purchase would
ave paid; that if said land had been offered for sale during the
ast year it would not have brought over three-fifths of said purchase
price. (Book 26, page 192.) Affidavit dated December 1,
6 1921.

Walter Reeson states that in pursuance of a written con-
act made June 28, 1919, he sold 160 acres of land for $65,593;
hat owing to the fact that grantee owned land adjoining he was in-
uced to pay considerably more than any other purchaser would
ave paid; that if said land had been offered for sale during the
ast year it would have been impossible to receive over three-fifths
f the amount of said purchase price. (Book 26, page 193.) Affi-
avit dated December 1, 1921.

Fred Thietje, real estate dealer, states that he is familiar with the
uarter section of land sold by Charles Kappius to Joseph Guenther
n March 1, 1920, for a consideration of $63,200; that said Guen-
her paid $20,000 in cash and gave a mortgage for the balance; that
said land had been offered for sale at any time during the past
x months it would not have sold for the amount of the mortgage.
Book 26, page 277.) Affidavit dated December 1, 1921.

Frank L. Boyer states that in pursuance of a written contract
ated June 13, 1919, he conveyed to Henry Rolf on February 24,
920, a quarter section of land for $41,500; that owing to the fact
hat Rolf had relatives living near said land he was induced to pay
more than the ordinary purchaser would have paid; that had he
wned said land in March, 1921, or at any time since he could not
ave received to exceed $28,000 therefor. (Book 26, page 291.)
ffidavit dated dated December 3, 1921.

Fred W. Jarrett states that in pursuance of a written contract
ated July 22, 1919, he conveyed on March 1, 1920, a quarter sec-
on of land for $26,400; that the purchaser was not able to settle on
rms specified and that said land has so depreciated in value that
he has to take back the land he would not give to exceed therefor
more than the sum of $14,284, being the incumbrances on said land.
Book 26, page 334.) Affidavit dated December 1, 1921.

Frank H. Harstick states that in April, 1919, he contracted to
urchase 160 acres of land for $20,250; that about three months
ter he sold the same for $22,500; the conveyance being made in
920; that if he had not sold the land at the time he did it would
ave been impossible for him to receive as much as he paid for it
any time during the year 1921. (Book 26, page 424). (Book
26, page 345.) Affidavit dated December 3, 1921.

Fred Thietje states that in pursuance of a written con-
tract dated October 7, 1919, he conveyed on March 1, 1920,
acres of land for $22,000; that if said land were to be sold now,
had been sold during the past six months, it would not

have brought to exceed $12,000. (Book 26, page 487.) Affida
dated December 1, 1921.

Albert Bracht states that in pursuance of a written contract ma
in July, 1919, he purchased on February 20, 1920, 80 acres
land for $20,000; that the fair market value of said land on Ap
1, 1921, was $14,000. (Book 26, page 263.) Affidavit dated D
cember 14, 1921.

Bernard Hunke states that in pursuance of a written contr
made in August, 1919, he purchased 80 acres of land on Febru
26, 1920; that the fair market value thereof on April 1, 1921, d
not exceed $14,000. (Book 26, — 375.) Affidavit dated Decemb
14, 1921.

Emil Wegner states that in pursuance of a written contract ma
in September, 1919, he purchased on March 3, 1920, a certa
tract of land (acreage not clearly stated) for $44,880; that on Ap
1, 1921, the fair market value thereof would not exceed $27,5
(Book 26, page 411.) Affiavit dated December 16, 1921.

John K. Erb states that in pursuance of a written contract ma
in August, 1919, he purchased February 21, 1920, a quarter sect
of land for $20,800; that if he were to have purchased said land
April, 1921, he would not have paid to exceed $12,000 for it. (Bo
26, page 286.) Affidavit dated December 16, 1921.

Hugo M. Nicholson, states that in pursuance of a written contr
dated August 7, 1919, he sold 80 acres of land for $16,800; th
said land did not exceed in value on April 1, 1921, the sum
$10,000. He further says that in his opinion land in Cuma
County had on April 1, 1921, decreased in value to the extent
forty to fifty per centum of its value in 1919 and in the spring
1920. (Book 26, page 398.) Affidavit dated December 13, 19
Herman Lemke states that in pursuance of a written contr
dated August 7, 1919, he purchased on March 30, 1920, a quar
section of land for $24,000; that the same could not have be
sold on April 1, 1921, to exceed $16,000. (Book 26, page 39
Affidavit dated December 16, 1921.

268 Herman Lemke states that in pursuance of a written co
tract made February 7, 1920, on the 30th day of Marc
1920, he sold a quarter section of land for $24,800; that the f
market value of said land on April 1, 1921, did not exceed $16,0
(Book 26, page 400). Affidavit dated December 16, 1921.

Henry W. Peters states that in pursuance of a written contr
dated August 8, 1919, he sold on March 22, 1920, 80 acres of la
for $16,400, taking back a mortgage for $10,000; that only a p
of the interest has been paid thereon during the past year and th
if said mortgage be foreclosed the land will not bring any more th
the amount of the mortgage. (Book 26, page 408.) Affida
dated December 16, 1921.

Clarence Galbraith states that in pursuance of a written contr
dated March 15, 1919, he purchased on February 26, 1920,
acres for $26,000; that he considered $16,000 as a fair market va
of said land at the present time. (Book 26, page 254). Affida
dated December 2, 1921.

J. H. Emley states that in pursuance of a written contract dated September 30, 1919, he sold on February 28, 1920, 240 acres of land for $78,000; that there are now mortgages on said land for $40,000 and that he would not give to exceed the amount of the mortgages for the land; that the land was not worth any more on April 1, 1921, than at the present time. (Book 26, pages 288-289.) Affidavits dated December 2, 1921.

Clarence Galbraith states that in pursuance of a written contract dated November 14, 1919, he purchased from W. A. Smith on February 14, 1920, a quarter section of land for $48,000; that he considers $28,800 to be the fair market value of said land at the present time. (Book 26, page 307). Affidavit dated December 2, 1921.

Wm. A. Smith states that on March 1, 1920, Andrew R. Olson conveyed 80 acres of land for $26,000. (Deed in Book 26, page 323); that he is authorized by the grantee, the present owner, to sell the same for $16,000, or for $10,000 less than the price paid. (Book 26, page 323.) Affidavit dated December 2, 1921.

A. R. Oleson states that in pursuance of a written contract 269 dated August, 1919, he sold on March 1, 1920, 80 acres of land for $26,000; that on April 1, 1921, he believed it could have been sold for $225 per acre but that at this time it was doubtful whether it could be sold for over $200 per acre. (Book 26, page 323.) Affidavit dated December 13, 1921.

Ben Martin states that in pursuance of a written contract made in August, 1919, he sold a quarter section of land for $60,000; that on April 1, 1921, the same could not have been sold for more than $40,000. (Book 26, page 366). Affidavit dated December 13, 1921.

O. H. Wegner states that in pursuance of a written contract made May 29, 1919, he sold on February 26, 1920, 80 acres of land for $18,800; that the fair market value thereof on April 1, 1921, did not exceed $14,000. (Book 26, page 306.) Affidavit dated December 16, 1921.

John F. Jurgenson states that in pursuance of a written contract made in August, 1919, he purchased on February 28, 1920, a quarter section for $42,400; that the fair market value thereof on April 1, 1921, did not exceed $32,000. (Book 26, page 311.) Affidavit dated December 16, 1921.

John B. Wingert states that in pursuance of a written contract made in July, 1919, he sold in February, 1920, 80 acres of land for $25,408.50; that the fair market value thereof on April 1, 1921, would not exceed $200 per acre. (Book 25, page 603.) Affidavit dated December 15, 1921.

Geo. W. Breitbarth states that in pursuance of a written contract dated July 7, 1919, he purchased a quarter section for $42,300; that he was unable to meet his payments thereon and turned the same over to his father; that although he had placed numerous improvements on said land he considers that its fair market value on April 1, 1919, to be approximately $18,000. (Book 35, page 615.) Affidavit dated December 15, 1921.

Joseph Leimer states that in pursuance of a written contract made in July, 1919, he purchased on March 1, 1920, a quarter section for $53,600; that the fair market value thereof on April 1, 1921, would not exceed $32,000. (Book 26, page 297.) Affiavit dated December 15, 1921.

Ernest F. Beckmann states that in pursuance of a written
270 contract made in June, 1919, he purchased on February 1,
1920, 80 acres of land for $24,000; that owing to its situation he paid more therefor than the ordinary purchaser would have paid; that the land has depreciated in value not less than thirty-five per cent since the date of the agreement. (Book 28, page 7.) Affidavit dated December 15, 1921.

O. L. Nelson states that in pursuance of a written contract dated June 21, 1919, he sold on February 19, 1920, 80 acres of land for $36,349; that on or about September 1, 1921, he re-purchased said land from his grantee for the sum of $24,000. (Book 26, page 376.) Affidavit dated December 5, 1921.

Jerome K. Brazda states that Andrew Oleson, on March 1, 1920, sold 80 acres of land for $26,000 (Deed recorded in Book 26, page 323); that thereafter on November 25, 1921, he purchased said 80 acres for $14,800 (Deed recorded in Book 27, page 104); he says that the general depreciation in the fair market value between the 1st day of March, 1920, and November, 1921, is about the same proportion as the depreciation in value of the said 80 acres. Affidavit dated January 6, 1922.

Joseph W. Kellinghaus states that in pursuance of a written contract he purchased on February 26, 1920, a quarter section for $53,400; that the fair market value of the same on April 1, 1921, would not exceed $36,000. (Book 25, page 651.) Affidavit dated December 31, 1921.

Joseph S. Uhing states that in pursuance of a written contract made in September, 1919, he purchased on February 28, 1920, 80 acres of land for $26,000; that the fair market value thereof on April 1, 1919, would not exceed $13,000. (Book 26, page 268.) Affidavit dated December 31, 1921.

N. F. Hansen states that in pursuance of a written contract made in May, 1919, he sold, February 25, 1920, a quarter section for $36,000; that the fair market value thereof on April 1, 1921, would not exceed $24,000. (Book 26, page 249.) Affidavit dated December 30, 1921.

Oscar Hultquist states that in pursuance of a written contract made in June, 1919, he purchased on February 26, 1920, 200 acres
for $60,000; that the fair market value of the above real
271 estate on April 1, 1921 would not exceed $30,000. (Book 26, page 346.) Affidavit dated December 29, 1921.

William B. Ockander states that in pursuance of a written contract made in July, 1919, he purchased on January 19, 1920, 80 acres of land for $21,200; that the fair market value thereof on April 1, 1921, would not exceed $12,000. (Book 25, page 633.) Affidavit dated December 29, 1921.

Ludwig Otterstein states that on March 1, 1920, he sold a quar-

ter section of land for $36,000; that the fair market value thereof on April 1, 1921, would not exceed $18,000. (Book 26, page 276.) Affidavit dated December 30, 1921.

Ida Zuhlke states that in pursuance of a written contract made in August, 1919, she sold on March 1, 1920, a quarter section of land for $39,000; that the fair market value of the same on April 1, 1921, would not exceed $18,000. (Book 26, page 275.) Affidavit dated December 30, 1921.

O. C. Anderson states that on July 7, 1920, as referee, he sold 80 acres of land for $28,440; that the fair market value of the same on April 1, 1921, would not exceed $16,000. (Book 28, page 92.) Affidavit dated December 30, 1921.

H. L. Morse states that in pursuance of a written contract dated May 17, 1919, he purchased on February 26, 1920, a quarter section for $48,000; that the fair market value thereof on April 1, 1921 would not exceed $24,000. (Book 25, page 604.) Affidavit dated December 29, 1921.

Andrew C. Johnson states that in pursuance of a contract made in December, 1920, he purchased on June 1, 1921, 82 acres for $14,602; that the fair market value thereof on April 1, 1921, would not exceed $12,000. (Book 28, page 150.) Affidavit dated December 29, 1921.

Emil Zuhlke states that in pursuance of a written contract made in December, 1919, on February 10, 1920, he sold to Philip Graff 80 acres of land for $21,200; that the fair market value thereof on April 1, 1921, would not exceed $11,000. (Book 26, page 303.) Affidavit dated December 29, 1921.

Joseph Herzinger states that in pursuance of a written contract made in November, 1919, he sold to Alfred Miller a quarter section of land on March 1, 1920, for $48,000; that the fair market value thereof on April 1, 1921, would not exceed $32,000. (Book 26, page 369.) Affidavit dated December 28, 1921.

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Emil Wegner states that in pursuance of a written contract made in August, 1919, he sold on March 31, 1920, 120 acres of land for $50,000; that the fair market value thereof on April 1, 1921, would not exceed $30,000. (Book 26, page 413.) Affidavit dated December 28, 1921.

Gerhard Schweers states that in pursuance of a written contract dated January 24, 1920, he sold on January 30, 1920, a quarter section of land for $54,000; that the fair market value thereof on April 1, 1921, would not exceed $27,000. (Book 26, page 426.) Affidavit dated December 28, 1921.

Michael Kerler states that in pursuance of a written contract made in June, 1919, he sold on March 1, 1920, 80 acres of land for $28,000; that the fair market value thereof on April 1, 1921, would not exceed $14,000. (Book 26, page 365.) Affidavit dated December 22, 1921.

J. F. Zajicek states that he is cashier of the Nebraska State Bank at West Point and secretary-treasurer of the West Point National Farm Loan Association; that he knows of the sale of a quarter sec-

tion of land by John Elsinger (Deed recorded in Book 26, page 278) in pursuance of a written contract entered into during the fall of 1919; that on September 24, 1921, the grantee applied for a loan and said land was appraised by the West Point National Farm Loan Association on September 26, 1921, for $12,000; that thereafter an examination was made for the Federal Land Bank and its examiner reduced the valuation to $11,200; that if he were to have purchased said land on April 1, 1921, he would not have given to exceed $12,000. Affidavit dated December 20, 1921.

Chas. W. Johnson states that in pursuance of a written contract made in September, 1919, he purchased on February 27, 1920, 160 acres of land for $52,000; that the fair market value thereof on April 1, 1921, would not exceed $44,000; (Book 25, page 643.) Affidavit dated December 22, 1921.

Adolph English states that in pursuance of a written contract made March 19, 1919, he purchased a quarter section for $36,000; that the fair market value thereof on April 1, 1921, would not
273 exceed $24,000. (Book 26, page 255.) Affidavit dated December 21, 1921.

W. E. Webb states that in pursuance of a written contract made on April 26, 1919, he purchased on March 27, 1920, a quarter section of land for $45,000; that the fair market value thereof on April 1, 1921, would not exceed $25,000. (Book 26, page 406.) Affidavit dated December 21, 1921.

Ferd Schlecht states that in pursuance of a written contract made in January, 1920, he purchased on the 26th day of January, 1920, 80 acres of land for $26,000; that the fair market value thereof on April 1, 1921, would not exceed $13,000. (Book 26, page 273.) Affidavit dated December 21, 1921.

Joseph Neiman states that in pursuance of a written contract dated July 9, 1919, he purchased on March 1, 1920, 80 acres of land for $33,600; that the fair market value thereof on April 1, 1921, would not exceed $16,000. (Book 26, page 352.) Affidavit dated December 21, 1921.

George Konopik states that in pursuance of a written contract made in January, 1920, he purchased on February 14, 1920, 80 acres of land for $22,000; that the same joins land already owned by him which induced him to pay more than the ordinary purchaser would have paid; that the fair market value thereof on April 1, 1921, would not exceed $12,000. (Book 26, page 420.) Affidavit dated December 21, 1921.

J. F. Zajicek states that he is a cashier of the Nebraska State Bank at West Point and secretary-treasurer of the West Point National Farm Loan Association; that he knows of the sale by William Neary of the quarter section of land for $20,000 (Deed recorded in Book 26, page 671), said conveyance being made in pursuance of a written contract made in the summer of 1920; that on April 1, 1921, the fair market value of said land would not exceed $7,000. Affidavit dated December 20, 1921.

W. F. Bolt states that in pursuance of a written contract made in September, 1919, he purchased on February 25, 1920, a quarter s

tion for $56,000; that the fair market value of the same on April 1, 1921, would not exceed $24,000. (Book 26, page 298). Affidavit dated December 21, 1921.

William H. Fillmer states that in pursuance of a written
274 contract made in July, 1919, he purchased on February 26, 1920, 100 acres of land for $42,000; that the fair market value thereof on April 1, 1921, would not exceed $21,000. (Book 26, page 253.) Affidavit dated December 21, 1921.

Percy Nellar states that in pursuance of a written contract made in September, 1919, he purchased on February 26, 1920, a quarter section of land for $53,200; that the fair market value of the same on April 1, 1921, would not exceed $32,000; (Book 26, page 436). Affidavit dated December 21, 1921.

John Ahrens states that in pursuance of a written contract made in July, 1919, he purchased on February 27, 1920, a quarter section of land for $56,000; that the fair market value thereof on April 1, 1921, would not xceed $28,000. (Book 26, page 331.) Affidavit dated December 22, 1921.

Carl Steinbaugh states that in pursuance of a written contract made in August, 1919, he purchased on February 27, 1920, a quarter section of land for $48,000; that the fair market value thereof on April 1, 1921, would not exceed $40,000. (Book 25, page 590.) Affidavit dated December 22, 1921.

Carl Steinbaugh states that in pursuance of a written contract made in May, 1919, he purchased on February 21, 1920, a quarter section of land for $42,400; that the fair market value thereof on April 1, 1921, would not exceed $38,500. (Book 25, page 589.) Affidavit dated December 22, 1921.

John Jahnke states that in pursuance of a written contract made in July, 1919, he purchased on February 25, 1920, a quarter section of land for $52,000; that the fair market value thereof on April 1, 1921, would not exceed $24,000. (Book 26, page 284.) Affidavit dated December 21, 1921.

John Doffin states that in pursuance of a written contract made in May, 1919, he purchased on March 1, 1920, a quarter section of land for $15,200; that the fair market value thereof on April 1, 1921, would not exceed $8,000. (Book 26, page 351). Affidavit dated December 21, 1921.

Charles Jugel states that in pursuance of a written contract made May 31, 1919, he sold on March 1, 1920, 80 acres of land for $24,000; that the fair market value thereof on April 1, 1921, would not exceed $16,000. (Book 26, page 296.) Affidavit dated De-
275 cember 21, 1921.

Marcus Peterson states that in pursuance of a written contract made in March, 1919, he sold on March 1, 1920, 80 acres of land for $16,195; that the fair market value thereof on April 1, 1921, would not exceed $150 per acre. (Book 26, page 282.) Affidavit dated December 20, 1921.

John Pribnow states that in pursuance of a written contract made in June, 1919, he purchased on February 6, 1920, 80 acres of land for $14,000; that the fair market value thereof on April 1, 1921

would not exceed $10,000. (Book 25, page 600.) Affidavit dated December 20, 1921.

Henry F. Pribnow states that in pursuance of a written contract made in June, 1919, he purchased on February 16, 1920, 80 acres of land for $14,000; that the fair market value thereof on April 1, 1921, would not exceed $10,000. (Book 25, page 601.) Affidavit dated December 20, 1921.

Alfred Anderson states that in pursuance of a written contract made March 30, 1920, he purchased on March 1, 1921, a quarter section of land for $54,230; that the fair market value thereof on April 1, 1921, would not exceed $32,000. (Book 28, page 112.) Affidavit dated December 20, 1921.

John Henry Witte states that in pursuance of a written contract made in September, 1919, he purchased on February 27, 1920, a quarter section for $55,200; that the fair market value thereof on April 1, 1921, would not exceed $32,000. (Book 25, page 626.) Affidavit dated December 20, 1921.

Carl Spering states that in pursuance of a written contract made in August, 1919, he purchased on March 1, 1920, 200 acres of land for $57,280; that the fair market value thereof on April 1, 1921, would not exceed $35,000. (Book 26, page 373.) Affidavit dated December 19, 1921.

Carl Spering states that in pursuance of a written contract made in August, 1919, he sold on March 1, 1920, 80 acres of land for $20,000; that the fair market value thereof on April 1, 1921, would not exceed $10,000. (Book 26, page 333.) Affidavit dated December 19, 1921.

276 Robt. Roggenbach states that in pursuance of a written contract made in October, 1919, he purchased on March 3, 1920, a quarter section of land for $40,920, purchasing it for one of his sons and probably paying more than the ordinary purchaser would have paid; that the fair market value thereof on April 1, 1921, would not exceed $21,000. (Book 25, page 658.) Affidavit dated December 19, 1921.

O. E. Bishop states that in pursuance of a written contract made in November, 1919, he purchased on February 17, 1920, 80 acres of land for $27,000; that the fair market value thereof on April 1, 1921, would not exceed $16,000. (Book 26, page 285.) Affidavit dated December 19, 1921.

H. W. Faubel states that in pursuance of a written contract dated April 11, 1919, he sold on April 1, 1920, a quarter section of land for $45,000; that the fair market value thereof on April 1, 1921, would not exceed $24,000. (Book 26, page 418.) Affidavit dated December 19, 1921.

Archie M. Ford states that in pursuance of a written contract made in December, 1919, he sold on February 27, 1920, 80 acres of land for $22,000; that the fair market value thereof on April 1, 1921, would not exceed $16,000. (Book 25, page 598.) Affidavit dated December 22, 1921.

J. C. Elliott states that he was county attorney of Cuming County; that during the year 1921, he participated in eight hearings for the

purpose of appraising estates to determine the amount of inheritance tax therefrom; that during the year 1921 the results of such hearings and appraisements were as follows:

2	tracts	$225	per acre.
1	"	200	" "
2	"	190	" "
1	"	180	" "
6	"	175	" "
1	"	150	" "
1	"	125	" "
1	"	100	" "

that many of the lands thus appraised were readily salable in 1918 and 1919 from $350 to $400 per acre.

Affiant further says that all of the affidavits mentioned
277 above are now available for inspection by any of the parties interested in this hearing. Harry W. Scott.

Subscribed and sworn to before me this 22nd day of July, 1922. D. M. Amsbery, Secretary of State. (Seal.)

(End of Exhibit 14½.)

Mr. Clark: Complainants now offer in evidence from Exhibit "15" the first page of the Fourteenth Census of the United States: 1920 Bulletin: Agriculture: Nebraska. And offer from the second page Table 5.—Average Value per Acre: 1860 to 1920. And commencing on page 12 I offer the headlines on pages 12 and 13, and then the sub-headline "County Table I.—Farms and Farm Property, 1920, with selected items for 1910 and 1900," and the next line, being "The State" and the list of counties extending over pages 12, 13, 14, 15, 16, 17, 18, 19, 20, closing with the County of York *on* the last column of that page. Under the column headed "State" and then the columns with the name at the head of each county I introduce on those pages Line 49 entitled "Land alone per acre — dollars —" following that line through to page 14 and
278 through to page 20 inclusive.

Which said document, marked Exhibit 15, containing the matters above offered and received in evidence, is attached hereto and returned herewith as follows:

279 Mr. Clark: Now, Gentlemen of the Board, and Mr. Lamaster, if you desire I will bring in the field men who collected this data from the different counties for us, if you have any question about the accuracy or the good faith of the work we did in the field.

Mr. Lamaster: As far as I am concerned I do not have any question of the accuracy of the figures. I am inclined to think that the transfer- do not really reflect conditions because of the fact that a great many of these deals were not consummated for a long time after the contract was made, due to the fact that many of the contracts were drawn that way and the further fact that financial con-

ditions were bad and that postponed a good many deals, and the further fact that a good many of these transfers are probably, in effect, a part of the cleaning-up process.

Mr. Clark: That does not refer to the mortgage record.

Mr. Lamaster: That is only my personal notion. If the Board——

Mr. Osborne: I do not doubt but that is true, and a correct copy of those records.

Mr. Dressler: Is it your position that this data we have that is based on the transfers is of no value because it may be a cleaning-up process?

280 Mr. Lamaster: I would not say it is of no value, but I would say it is not a very great value because of the enormous shrinkage in values.

Mr. Dressler: Does the Board have any source of information that is better?

Mr. Lamaster: That one County I mentioned I think will show the facts.

Mr. Dressler: Is there any better or different basis for arriving at the market value of land than the one that is presented here?

Mr. Lamaster: I believe there is.

Mr. Dressler: What is it?

Mr. Lamaster: That is the sales actually made during the period about April 1st early part of the year 1922, sales actually made then that hadn't anything to do with any previous transaction.

Mr. Clark: It is admitted that for the year 1921 the total value of property in the state was $3,305,401,864.00. Of that amount lands and improvements constituted $1,811,973,691.00; that the lands and improvements represented 54.8 per cent of the total. Acres of land in the state being 46,389,534. The average value per acre for 1921 was $39.06 per acre.

Mr. Osborne: I think we ought to have the resolution in there.

281 Mr. Clark: I introduced it.

Mr. Osborne: That resolution does not contain your road, Mr. Dressler.

Mr. Clark: There is a special resolution for the Northwestern?

Mr. Osborne: Yes.

Mr. Dressler: It is in the same language but with different figures.

Mr. Clark: Complainants offer in evidence the resolutions of the Board fixing the assessed value of the Chicago & Northwestern Railway Company, which will be exhibit "16."

Which said document, marked Exhibit "16," so offered and received in evidence, is in the words and figures as follows:

Exhibit 16.

"Office of the Governor, Lincoln, Nebraska.

June 27th, 1922.

Resolved; That we, the State Board of Equalization and Assessment, in regular session held for the purpose of valuing and assessing the North Western Railroad in the State of Nebraska, for the purpose of taxation of their property in the said state, and having given due and full consideration to the returns furnished said Board by the said railway company, and having taken into con-
282 sideration the main track, side track, spur track, ware-house tracks, road bed, right of way and depot grounds, and all machinery, rolling stock, telegraph lines and instruments connected therewith, all material on hand, and supplies, monies, credits, franchises, and all other property of said railroad company, and having taken into consideration the gross and net earnings of the said railroad, the total amount expended in operation and maintenance, the dividends paid, the capital stock of the system, and the market value thereof, and the total amount of secured and unsecured indebtedness, and from all the information which we are able to obtain, do hereby ascertain, appraise, fix and assess for the purpose of general taxation, the full actual value of the property of the Chicago & North Western R. R. in the State of Nebraska as hereinafter recited: $38,714,373.00."

(End of Exhibit 16.)

Mr. Magaw: I desire to recall Mr. Scribner for a matter.

A. W. SCRIBNER, a witness heretofore called and duly sworn was recalled and testified as follows:

Examined by Mr. Magaw:

Q. Mr. Scribner, I hand you Exhibit "17," and I will ask you to state what that is.

A. This is a statement compiled by me showing the capi-
283 talization, market value of the Union Pacific System December 31, 1921, based on average market prices of stocks and bonds for the year 1921.

Q. Is it correct?

A. It is taken from the figures furnished me by the Comptroller's Office from New York. A copy of this was filed with the State Board of Equalization in May last.

Q. That is, this is a copy of the original filed with the Board last May?

A. Yes sir.

Mr. Magaw: We offer Exhibit "17" in evidence.

Which said document, marked Exhibit "17," so offered and received in evidence, is in the words and figures as follows:

284 **Exhibit 17 to Scribner's Testimony.**

Union Pacific System.

Statement of Capitalization, December 31st, 1921.

	Par or face value.	Average market price, 1921.	Average market value, 1921.
U. P. R. R. Co. Common	$222,291,600	121½	$270,084,29[illegible]
U. P. R. R. Co. Preferred	99,543,500	68⅜	68,062,86[illegible]
Total stocks.....	$321,835,100		$338,147,1[illegible]
Bonds:			
As per list attached....	379,665,530		319,279,5[illegible]
Total Stocks and Bonds, Market Value.....			$657,426,6[illegible]

Less deductions of property and securities which are not parts of the corporate plant, but which are assets entering into and enchancing the value of the stocks and bonds of the System.

Auxiliary and Investment Stocks, Bonds, Certificates and Notes, as per list:		
Par or Face Value.....	$324,381,132	
Book Value, Dec. 31st, 1921....	$290,948,294	
Advances to affiliated Companies.—..	9,994,556	
Current Assets in excess of Current liabilities	20,962,247	
Sinking Funds	172,960	
Miscellaneous Physical Property.....	1,140,622	
Land Assets	2,435,924	
Water Line Properties (Estimated)...	1,500,000	
		$327,154,6[illegible]
Net capitalization, Market Value.....		$330,272,0[illegible]
Miles First Main Track.....		7,900.[illegible]
" Add'l " "		1,161.[illegible]
Net Capitalization per roadway mile, (Main Track).		41,8[illegible]

Union Pacific System.

Bonds Outstanding December 31st, 1921.

		Par or face value.	Average m'k't price, 1921.	Average m'k't value, 1921.
U. P. 1st Mtge. R. R. & Land Grant	4%	$100,000,000	85¼	$85,250,000
U. P. 1st Lien & Refunding	4%	65,817,670	78¾	51,831,415
U. P. 20 year Convertible	4%	26,835,225	86⅝	23,246,014
U. P. 10 year Collateral	6%	20,000,000	100⅛	20,025,000
U. P. Serial Equipment Trust	7%	10,000,000	102	10,200,000
O. S. L. R. R. Consol, 1st Mtge	5%	12,328,000	94½	11,649,960
O. S. L. Ry. 1st Mtge	6%	14,931,000	98⅞	14,763,026
O. S. L. Ry. 25 year refunding	4%	45,000,000	83⅞	37,723,750
U. & N. 1st Mtge. Extended	4%	4,991,000	79¾	3,980,323
U. & N. Consol. 1st Mtge	5%	1,441,000	94	1,354,540
O. W. R. & N. 1st & Ref. Mtge	4%	54,669,135	73¾	40,318,487
O. R. R. & N. Consol. Mtge	4%	23,380,000	80	18,704,000
O. S. L. Income A		272,500	85½	232,987
Totals		$379,665,530		$319,279,502

286 Mr. Magaw: I believe that is all with Mr. Scribner on that.

Mr. Clark: Now, Mr. Secretary, in my petition I ask that the Counties be notified to be here at this hearing and that their valuations be raised. Was there any notice sent to them as to that?

Mr. Osborne: I want this to go in the record: They are cited to appear here next Monday.

Mr. Clark: Was there any notice sent out to them of this complaint?

Mr. Osborne: No sir, because the abstracts are not all in.

Mr. Dressler: Do I understand the Counties have been notified to appear sometime?

Mr. Osborne: Yes.

Mr. Clark: When is that hearing to be?

Mr. Osborne: Next Monday.

Mr. Clark: Does that apply as to all the counties in the state or part of them?

Mr. Osborne: Applies to what is here.

Mr. Clark: Now, may I ask the Board and the Tax Commissioner not to certify the results of your equalization as to these complaints or any other to the County Clerks until after the Complain-

287 ants have time to look at your decision and determine their course.

Mr. Osborne: They have already been certified, Mr. Clark.

Mr. Clark: Won't you issue another certificate?

Mr. Osborne: You mean the values of this road?

Mr. Clark: I am speaking now of your certificates you send out of your equalization results as provided by statute.

Mr. Osborne: No, not yet.

Mr. Clark: May I ask that you not certify them out until after your final decision and we decide what course we wish to pursue.

Mr. Osborne: How long a time do you want?

Mr. Clark: The statute gives us ten days. We will get at it as soon as we learn your decision.

Mr. Osborne: You desire ten days then?

Mr. Clark: I do not want it certified out until we decide what course — will take.

Mr. Osborne: You mean ten days after the levy is made?

Mr. Clark: No.

Mr. Dressler: Ten days after you announce your decision.

Mr. Clark: The statute provides you shall certify the results of these hearings out to the County Clerks.

Mr. Lamaster: Are you through with Mr. Scribner?

288 Mr. Magaw: Yes.

Further cross-examination.

By Mr. Lamaster:

Q. How are these average market values taken, the daily average on the stock exchanges?

A. No, that is taken from the high and low, the *means* average for the year, high quotation and low quotation for the year.

Q. And split the difference between the two?

A. Yes sir.

Q. Do you know what had been the trend of the stocks during the latter part of the year 1921?

A. They had been both up and down during the year 1921. At one time it was as low as 114.

Q. Isn't it a fact that about the end of 1920 or early in 1921 was when stocks were about the lowest point, and from then on the trend has been upward?

A. They were lowest about the end of the year. I know I bought a little myself and I paid 119 for it early in the year and along later in the year it was down to 114, and at the end of the year it was about 134.

Q. And during the year 1922 the general trend, from January 1st to April 1st, was upward was it not?

A. I think it was a little, yes.

Q. So these figures hardly reflect conditions as they existed on April 1st, 1922?

A. Well, as nearly as may be.

Q. You haven't the actual figures for any part of the year 1922, have you?

—. ——.

A. Not here?

A. No sir.

Q. In the deductions what was the valuation placed on the stocks? That is, what is the method of valuing the stock?

A. Value deductions, the stocks and other securities that are deducted?

Q. Yes.

A. That is to take the book value as of December 31, 1921.

Q. Why was it you did not take the market value in making those deductions?

A. Because a great many of those securities were not on the market and could not be determined that way. When the stock went down however the Comptroller would write off losses; they wrote off quite a little loss in 1921. As you will observe the par value of that property deducted is $324,000,000.00, whereas as it is deducted it is only $290,000,000.00.

Q. Isn't it a fact a good many of these stocks held by the Union Pacific are other railway stocks?

A. Some other railway stocks——

Q. Listed on the New York Exchange.

A. About $23,000,000.00 of that is Liberty Bonds.

Q. For instance, a large amount of it is Baltimore & Ohio, stock, isn't it?

A. Quite a little. However this is a small proportion of the $324,000,000.00. The copy of the annual report I brought down with me has a lot of pages missing.

Q. If there is any information you wish to send down we are willing to put it in afterwards.

A. I wanted to answer your question.

Q. What amount did you compute your earnings on during the period of Federal control, Mr. Scribner?

A. During the period of Federal control the earnings reported here were from Federal operation, not corporate operation.

Q. I mean, what was the basis of the rental fixed between the Company and the Federal government?

A. That was on the net earnings for what was called "the test period," the three years ending June 30th, 1917.

Q. How many dollars was that?

A. For this system — was about thirty-four million, for the about eight thousand miles of railroad.

Q. That is, that was the annual rental?

A. Annual rental.

Q. Of course, we could compute back and figure how much
291 the valuation was. Could you state what the valuation was on which that figure was based?

A. I could not offhand. I have it at home and I filed here with the Board,—I think Mr. Osborne has it now—a statement on which I capitalized the earnings or capitalized the rental received from the Government to see how much it would come to per mile of railroad.

Q. If that is on file I think that will answer.

A. It would be a theoretical valuation, but the rental figure was fixed.

Q. What was the figure fixed by the Interstate Commerce Commission in Ex Parte 74 for the Union Pacific?

A. In Ex Parte 74 it figured about seventy thousand a mile. That is assuming that the valuation used in Ex Parte 74 for Western and Mountain Pacific groups, which was $8,100,000,000.00 was about eight and one-sixth per cent less than the property investment account of all that group, and using that for the Union Pacific System of the property investment account of the Union Pacific System and deducting eight and one-sixth per cent, as was done in Ex Parte 74, it would give us about seventy thousand a mile.

Q. That is per road mile?

A. Per roadway mile, not a track mile.

Q. That includes all of your roadway miles for single and
292 double track?

A. For the System, yes sir.

Mr. Lamaster: That is all.

Redirect examination.

By Mr. Magaw:

Q. Mr. Scribner, how much per mile does the assessment amount to for the year 1922 in Nebraska?

A. In Nebraska?

Q. Yes.

A. For the 1,225 miles it is very nearly eighty-five thousand a mile. It is eighty thousand two hundred and something assessed.

the Board, to which if you add the locally assessed property, would bring it up to about eighty-five thousand a mile.

Q. On the total mileage in the State?

A. Yes sir.

Q. That includes branch lines and all?

A. Branch lines and all.

Mr. Magaw: That is all.

Recross-examination.

By Mr. Lamaster:

Q. How much of that is single track and how much is double track?

A. We have about 470 miles of main line out of the 1,225 miles.

Q. Your main line east and west is all double track?

A. All the way through from Omaha to the west line of the State, yes sir.

Q. Have you other double track mileage besides that?

A. On the Union Pacific?

Q. Yes.

A. Yes, indeed.

Q. I mean in Nebraska.

A. None in Nebraska except on the main lines, but there is a little of what is called the "old main line," South Omaha to Lane, the old way, there is a little double track on that.

Q. Is there any third track in Nebraska?

A. I think they call a little of that "third track;" it is operated the same as side track or passing track though.

Mr. Lamaster: That is all.

Witness excused.

Mr. Clark: Do you offer that tabulation now?

Mr. Lamaster: Yes, we will offer that tabulation as Exhibit "18." When the final decision is made by the State Board there will be another draft of Exhibit "18," showing the final results which will be substituted in place of Exhibit "18."

Which said tabulation, marked Exhibit "18," so offered and received in evidence, is in the words and figures as follows:

Exhibit No, 18.

Tentative Outline by State Board as to Real Estate, 1922.

Counties.	Per acre abst. avge.	% inc. or dec.	Equal. value per a.	Real estate val. as ret.	Real estate value as equal.	Total value as returned.	Total value as equal.	Ave. per acre, 1921.
Arthur (See bottom)	.....	....	....	.....	.....	.....	.....	.....
1 Adams	71.83	none	71.83	$25,058,510	$25,058,510	$49,901,860	$49,901,860	$72.12
2 Antelope	48.78	↑2%	49.94	26,139,825	26,562,621	37,590,849	38,013,645	50.09
3 Banner	6.20	↑14%	7.06	2,796,243	3,187,717	3,443,613	3,835,087	7.30
4 Blaine	4.79	—3%	4.65	1,860,320	1,804,511	3,783,079	3,727,270	4.66
5 Boone	71.10	none	71.10	30,911,015	30,911,015	43,420,985	43,420,985	70.60
6 Box Butte	9.32	—6%	8.77	5,952,735	5,595,572	15,181,545	14,824,382	8.78
7 Boyd	42.06	↑3%	43.32	13,594,585	14,002,422	18,837,259	19,245,096	43.22
8 Brown	8.00	↑10%	8.80	5,887,665	6,476,431	10,307,960	10,896,726	8.92
9 Buffalo	41.95	↑10%	46.14	24,973,858	27,471,243	49,590,655	52,088,040	46.11
10 Burt	119.87	none	119.87	34,282,395	34,282,395	45,638,560	45,638,560	120.30
11 Butler	96.69	none	96.69	35,406,635	35,406,635	50,457,625	50,457,625	97.13
12 Cass	111.46	none	111.46	38,098,865	38,098,865	56,528,300	56,528,300	111.32
13 Cedar	83.35	↑16%	96.79	38,559,520	44,729,043	53,649,995	59,819,518	97.00
14 Chase	12.27	none	12.27	6,555,845	6,555,845	9,836,036	9,836,036	12.20
15 Cherry	4.57	↑16%	5.30	15,465,932	17,940,381	29,659,492	32,134,041	5.29
16 Cheyenne	22.86	none	22.86	16,573,525	16,573,525	36,709,890	30,709,890	22.30
17 Clay	77.74	none	77.74	27,785,480	27,785,480	42,203,435	42,203,435	77.69
18 Colfax	112.77	none	112.77	28,920,715	28,920,715	41,169,435	41,169,435	111.82
19 Cuming	110.40	↑12%	123.64	40,519,736	45,382,104	52,392,772	57,255,140	123.60
20 Custer	19.67	↑4%	20.45	30,994,767	32,234,557	49,242,417	50,482,207	20.49
21 Dakota "	.....	....	....	.....	.....	.....	.....	96.86
22 Dawes	10.31	↑1%	10.41	8,582,440	8,668,264	19,702,486	19,788,310	10.45
23 Dawson	38.27	↑7%	40.94	23,316,580	24,948,751	41,162,848	42,795,009	41.14
24 Deuel	25.06	↑4%	26.06	6,315,822	6,880,454	12,941,110	13,205,748	26.10
25 Dixon "	.....	....	....	.....	.....	.....	.....	82.10

26 Dodge	118.73	none	118.73	37,519,780	37,519,780	64,324,160	64,324,160	119.36
27 Douglas "	.....	....	....	.....	.....	.....	.....	144.05
28 Dundy	9.88	⅜6%	10.47	5,428,938	5,754,674	11,902,683	12,228,420	10.47
29 Fillmore	85.31	none	85.31	31,128,530	31,128,530	44,906,463	44,906,463	85.26
30 Franklin	38.39	none	38.39	13,608,610	13,608,510	21,250,325	21,250,325	38.84
31 Frontier	16.69	⅜2%	17.02	9,896,803	10,094,739	15,759,423	15,957,359	17.04
32 Furnas	30.87	—4%	29.64	14,949,635	14,351,650	26,664,600	26,066,615	29.72
33 Gage	80.19	none	80.19	43,406,575	43,406,575	71,709,425	71,709,425	79.91
34 Gardon	8.39	⅜17%	9.81	8,481,197	9,923,000	12,472,919	13,914,722	9.81
35 Garfield "	.....	....	....	.....	.....	.....	.....	13.23
36 Gosper	28.86	none	28.86	8,446,410	8,446,410	11,861,105	11,861,105	28.63
37 Grant	3.82	—6%	3.60	1,777,884	1,653,433	5,865,784	5,741,333	3.60
38 Greeley	36.07	⅜14%	42.14	12,995,210	14,814,539	19,371,570	21,190,899	42.29
39 Hall	57.91	⅜6%	61.38	19,476,417	20,645,002	44,936,262	46,134,847	61.55
40 Hamilton	86.73	none	86.73	29,572,230	29,572,230	43,103,785	43,103,785	86.68
41 Harlan	32.06	none	32.06	11,412,845	11,412,845	20,328,430	20,328,430	32.00
42 Hayes	10.46	⅜23%	12.86	4,505,500	5,541,765	6,213,046	7,249,311	12.87
43 Hitchcock	18.48	none	18.48	7,916,622	7,916,622	14,954,973	14,954,973	18.22
44 Holt	13.93	⅜16%	16.16	20,213,680	23,547,868	30,543,250	33,777,438	16.24
45 Hooker	3.70	⅜8%	3.99	1,567,056	1,692,420	4,267,324	4,392,688	3.99
46 Howard	45.58	none	45.58	16,024,915	16,024,915	25,913,982	25,913,982	45.71
47 Jefferson "	.....	....	....	.....	.....	.....	.....	69.67
48 Johnson "	.....	....	....	.....	.....	.....	.....	85.97
49 Kearney	50.47	none	50.47	16,173,925	16,173,925	24,982,895	24,982,895	50.93
50 Keith	12.53	⅜10%	13.78	7,943,020	8,737,322	17,233,192	18,027,494	13.48
51 Keya Paha	9.58	⅜8%	10.34	4,377,555	4,727,750	6,015,425	6,365,629	10.38
52 Kimball	17.37	⅜3%	17.89	10,677,105	10,939,418	18,742,915	19,063,228	17.88
53 Knox	48.24	⅜10%	53.06	32,208,840	35,429,724	45,290,002	48,510,886	53.26
54 Lancaster	101.22	none	101.22	52,486,135	52,486,135	170,339,640	170,339,640	100.40
55 Lincoln	8.47	⅜20%	10.16	12,930,695	15,516,114	32,346,385	34,902,404	10.09
56 Logan "	.....	....	....	.....	.....	.....	.....	8.45
57 Loup	6.02	⅜20%	7.70	2,070,925	2,650,784	2,819,495	3,399,354	7.73
58 Madison	86.23	none	86.23	31,168,300	31,168,300	53,009,645	53,009,645	86.72
59 McPherson "	.....	....	....	.....	.....	.....	.....	5.22

Tentative Outline by State Board as to Real Estate, 1922—Continued.

Counties.	Per acre abst. avge.	% inc. or dec.	Equal. value per a.	Real estate val. as ret.	Real estate value as equal.	Total value as returned.	Total value as equal.	Ave. per acre, 1921.
60 Merrick	64.79	—4%	62.20	18,152,305	17,426,213	31,831,191	31,105,099	61.70
61 Morrill "	.....	....	....	.....	.....	.....	.....	9.90
62 Nance	62.65	‡4%	64.52	17,538,884	18,064,050	24,746,759	25,272,925	64.63
63 Nemaha	94.88	none	94.88	23,830,650	23,830,650	33,899,810	33,899,810	95.38
64 Nuckolls "	.....	....	....	.....	.....	.....	.....	58.62
65 Otoe	100.09	‡5%	105.54	39,065,945	41,019,242	56,387,255	58,340,552	105.58
66 Pawnee	69.23	none	69.23	18,919,630	18,919,630	27,998,786	27,998,786	69.21
67 Perkins	15.23	‡6%	16.14	8,539,145	9,051,493	12,962,004	13,574,352	16.25
68 Phelps	49.45	none	49.45	16,662,375	16,662,375	27,009,000	27,009,000	49.42
69 Pierce	58.96	‡30%	76.64	21,514,945	27,969,428	31,330,685	37,785,168	76.78
70 Platte	98.45	none	98.45	41,825,505	41,825,505	61,702,285	61,702,285	99.20
71 Polk	97.41	none	97.41	26,583,700	26,583,700	35,854,434	35,854,434	96.99
72 Red Willow	22.27	—4%	21.38	9,607,800	9,223,488	20,700,289	20,315,977	21.29
73 Richardson "	.....	....	....	.....	.....	.....	.....	92.11
74 Rock	.....	....	....	.....	.....	.....	.....	9.05
75 Saline	93.57	none	93.57	34,021,369	34,021,369	51,087,759	51,087,759	93.41
76 Sarpy	.....	....	....	.....	.....	.....	.....	102.71
77 Saunders	104.07	none	104.07	49,148,655	49,148,655	69,510,311	69,510,311	104.26
78 Scotts Bluff "	.....	....	....	.....	.....	.....	.....	37.69
79 Seward "	94.30	none	94.30	33,879,860	33,879,860	47,995,150	47,995,150	94.17
80 Sheridan	7.15	‡3%	7.36	10,440,440	10,753,653	20,389,645	20,702,858	7.34
81 Sherman	35.13	none	35.13	12,340,280	12,340,280	19,723,939	19,723,939	35.58
82 Sioux	6.42	‡8%	6.93	7,653,350	8,265,618	12,190,888	12,803,156	6.91
83 Stanton	88.42	‡11%	98.14	24,328,000	27,004,080	30,061,941	33,338,021	98.16
84 Thayer	62.57	none	62.57	22,560,900	22,560,900	35,026,775	35,026,775	62.00
85 Thomas	3.85	‡23%	4.73	1,325,386	1,630,224	3,975,338	4,280,176	4.72
86 Thurston "	.....	....	....	.....	.....	.....	.....	98.08
87 Valley "	.....	....	....	.....	.....	.....	.....	39.51

88	Washington	119.07	‡6%	126.21	28,029,755	29,711,540	38,971,815	40,652,600	125.86
89	Wayne	105.85	none	105.85	29,749,891	29,749,891	39,353,988	39,353,988	105.82
90	Webster	44.65	none	44.65	16,054,265	16,054,265	25,806,245	25,806,245	44.85
91	Wheeler	12.10	‡9%	13.18	4,188,250	4,565,192	5,433,420	5,810,362	13.20
92	York	92.17	none	92.17	33,489,840	33,489,840	50,388,755	50,388,755	92.71
93	Arthur	4.23	‡3%	4.35	1,829,509	1,884,394	2,597,065	2,651,950	4.35

W. H. Osborne, State Tax Commissioner.
H. W. Scott, Deputy.

‡Increase.
—Decrease.
"Abstract not received.

296 Mr. Lamaster: I desire to ask Mr. Morgan a few questions on cross examination.

E. F. MORGAN, a witness heretofore called and duly sworn on behalf of Complainants, was recalled and testified as follows:

Cross-examination.

By Mr. Lamaster:

Q. In your form G, being Exhibit "7" before this Board, being the Amended Statement of the Chicago, Burlington & Quincy, you give dividends as cash $44,925,917.00, and then a stock dividend of $60,000,000.00. How much of this cash dividend was paid out of revenues of the year 1921 and how much was paid out of an accumulated surplus?

A. The income account shows that $19,595,025.26 was paid out of the current income of 1921, and the balance out of surplus.

Q. Now, what dividends did you pay, in percentage, during the year 1921?

A. You must remember that the capital stock, at the beginning of the year, was $110,839,100.00, and the first dividend of two per cent was on that.

Q. And then what dividends were declared subsequently during that year?

297 A. Well, there was the first dividend of two per cent on $110,000,000.00; then there was another dividend of five per cent on $170,000,000.00; another dividend of five per cent on $170,000,000.00, and fifteen per cent on $170,000,000.00.

Q. Now, in addition to these dividends was there anything passed to surplus out of the current revenues for that year?

A. Current income there was $6,014,948.11; that was the income balance transferred to profit and loss after the dividends that were charged to income of that year.

Q. The operating expenses include taxes, maintenance, repairs, renewals, but exclude additions and betterments?

A. Yes sir.

Q. You follow the Interstate Commerce Commission accounting rules in arriving at this figure?

A. Yes sir, absolutely.

Q. I note you include Nebraska Taxes $2,207,533.85 and U. S. Taxes $654,978.11. Why are the U. S. Taxes included there, Mr. Morgan?

A. The Interstate Commerce Commission rules provide that all taxes, both State, Municipal and Federal, are chargeable to railway tax accruals.

Q. How much of this is income tax? Can you tell?

A. Yes, of that $654,978.11, $63,209.49 is Federal capital stock tax and $591,768.61 income tax.

298 Q. Is there anything in the rules of the Interstate Commerce Commission to the effect that the income tax should be deducted?

A. The income tax, under the Interstate Commerce Commission's classification, is chargeable to railway tax accruals and deductible from income. All taxes except assessments for public improvements, that is chargeable to capital.

Q. Are any of these taxes you have mentioned here as Federal Income Taxes deducted from on individual returns of stockholders as being taxes paid at the source?

A. No sir. I don't exactly get the question.

Q. I mean to say this: That certain taxes are paid by corporations and then they are allowed to be deducted from individual returns as being taxes paid at the source. Are these taxes that you mention such taxes as that?

A. The income taxes we paid to the United States government on our own income as a corporation.

Mr. Lamaster: That is all with Mr. Morgan, and I believe that is all I care to ask any of the witnesses.

Witness excused.

299 Mr. Clark: Complainants will now offer in evidence the final order and judgment of this Board of Equalization for the taxes for this year A. D. 1922.

Which said order, so offered and received in evidence is attached hereto in the words and figures as follows, and same found at page 93 of this record.

Mr. Clark: I now want to ask the Board not to certify out under Section 4 of Article 11, under the Revenue Law, the result of these equalization hearings until the Complainants have had time to examine the final judgment entered in this case and determine the course to pursue. Within the ten days allowed by statute.

Mr. Lamaster: I suppose that is up to the Board, but I am satisfied they will give you that time.

The Chairman: Yes, if that is the requirement of the law. This hearing will now stand adjourned, subject to the call of the Board.

Hearing closed.

300 Whereas the Union Pacific Railroad Company, the Chicago, Burlington and Quincy Railroad Company, the Chicago and North Western Railroad Company, and the St. Joe & Grand Island Railroad Company, have filed a complaint with this Board, wherein they complain against the valuation heretofore fixed by this Board upon their property:

And whereas on the 25th day of July a full hearing was granted said railroads as requested in said complaints:

And whereas this Board has cited before it approximately 35 counties to show cause why the real estate of such counties should not be increased:

And whereas after a full hearing the Board entered a final order increasing by a percentum the real estate of 28 counties, and decreasing 11 counties, and making no change in 55 counties:

Therefore be it resolved that the complaints of each of the complaining railroad companies, and the requests therein made, be dismissed.

Upon motion the resolution was unanimously adopted.

Dated August 2, 1922.

301 **Reporter's Certificate.**

STATE OF NEBRASKA,
Lancaster County, ss:

I, John S. Taggart, Official Reporter Fourth Judicial District of Nebraska, do hereby certfiy that I reported in shorthand the proceedings and testimony before the Nebraska State Board of Equalization and Assessment in the above entitled matter on July 25th, 1922 and that the within and foregoing is a full, true and complete transcript of the evidence and proceedings, including all exhibits offered and received in evidence at said hearing, and that the copies of said exhibits included herein are true and correct copies of the originals thereof, and that said testimony and proceedings were correctly transcribed herein as the same appear in my shorthand notes taken at the time and place hereinabove stated.

—— ——, Official Reporter, Fourth Judicial District of Nebraska.

Order Settling Bill of Exceptions.

I hereby certify that the within and foregoing is a true, correct and complete transcript of all of the evidence offered and received and proceedings had upon the hearing of the above entitled matter, and includes the decision of the Board upon the applications herein.

And, now, upon the application of the Complainants railroad companies, the within bill of exceptions is allowed and settled as such and filed in said matter and ordered to be made a part of the record in said matter.

Dated this — day of ——, 1922. —— ——, Acting Chairman.

302 Before the State Board of Equalization and Assessment of the State of Nebraska.

In re Assessment and Equalization of the Property in the State of Nebraska of the Following Railroad-: ——.

Exhibit 12—Bill of Exceptions.

Transcript of Proceedings had Friday, July 22d, 1921.

Ex. 12 Sub. J. S. T.

John S. Taggart,

Official Reporter,

Fourth Judicial District,

Nebraska.

303 Before the State Board of Equalization and Assessment of the State of Nebraska.

In re Assessment and Equalization of the Property in the State of Nebraska of the Following Railroads: UNION PACIFIC RAILROAD COMPANY, ST. JOSEPH & GRAND ISLAND RY. CO., CHICAGO, ROCK ISLAND & PACIFIC RY. CO., MISSOURI PACIFIC RAILROAD CORPORATION IN NEBRASKA, CHICAGO & NORTHWESTERN RAILWAY CO., CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY CO., CHICAGO, BURLINGTON & QUINCY R. R. CO.

Appearances: Hon. D. M. Amsberry, Secretary of State, Presiding, in the absence of the Governor; Hon. George W. Marsh, Auditor of Accounts; Hon. D. B. Cropsey, Treasurer; Hon. W. H. Osborne, Jr., Tax Commissioner.

Mr. Byron Clark, Solicitor, C. B. & Q. R. R. Co.
Mr. C. A. Magaw, General Attorney, U. P. R. R. Co. and St. Joe & G. I. R. R. Co.
Mr. J. A. C. Kennedy, Attorney, Mo. Pac. Ry. Co.
Mr. Wymer Dressler, Attorney, C. & N. W. Ry.
Mr. E. P. Holmes, Attorney, C. R. I. & P. Ry. Co.

On Friday, July 22, 1921, the following proceedings were had in the above entitled matter:

304 Mr. Clark: In offering this evidence at this time I am making one record in behalf of each of the railroads separately, so that each road can have such use of it as it wishes to make in the future and all of the offers of evidence will be in behalf, separately, of each of these complainants,—Union Pacific Railroad Company,

St. Joseph & Grand Island Railway Company, Chicago, Rock Island & Pacific Railway Company, Missouri Pacific Railroad Corporation in Nebraska, Chicago & Northwestern Railway Company, Chicago, St. Paul, Minneapolis & Omaha Railway Company, and the Chicago, Burlington & Quincy Railroad Company.

The Chairman of the Board can advise us as to the——

The Chairman: That arrangement will be satisfactory.

Mr. Clark: I will first offer in evidence as Exhibit "A," from your secretary's record of 1920, page 250, commencing with the second line from the bottom of the page and continuing on page 251, down to the figures making a total of $360,741,825.00, it being the resolution of A. D. 1920 valuing and assessing the property of the
305 complainants herein by this Board.

Which said record, marked Exhibit "A," so offered and received in evidence is attached hereto as follows:

Exhibit A.

The following resolution was unanimously adopted:

Resolved: That we, the State Board of Equalization and assessment, in regular session held for the purpose of valuing and assessing the railroads in the State of Nebraska for the purpose of taxation of their property in the said state and having given due and full consideration to the returns furnished said Board by the several railroad companies, and having taken into consideration the main track, side track, spur track, warehouse tracks, road bed, right of way and depot grounds and all machinery, rolling stock, telegraph lines and instruments connected therewith, all material on hand and supplies, moneys, credits, franchises and all other property of said railroad companies and having taken into consideration the gross and net earnings of said railroads, the total amount expended in operation and maintenance, the dividends paid, the capital stock of each system or road and the market value thereof, and the total amount of secured and unsecured indebtedness, and from all the information which we are able to obtain do hereby ascertain, appraise, fix and assess for the purpose of general taxation the
306 full actual value of the property of each of the several systems or companies in the State of Nebraska, as hereinafter recited.

Chicago, Burlington & Quincy Railroad Company	$131,765,605
Union Pacific Railroad Company	90,468,220
Chicago & Northwestern Railway Company	40,354,110
Chicago, St. Paul, Minneapolis & Omaha Railway Co.	13,744,305
Chicago, Rock Island & Pacific Railway Company	11,503,355
Missouri Pacific Railway Company	12,806,335
St. Joseph & Grand Island Railway Company	3,973,670
Mason City & Fort Dodge Railway Co.	540,000
Omaha & Lincoln Railway & Light Co.	99,450
Omaha Bridge & Terminal Railway Co.	548,000

Omaha, Lincoln & Beatrice Ry. Co.	91,800.00
Omaha & Southern Interurban Railway Co.	90,000.00
Illinois Central Railway Company	54,000.00
Wabash Railroad Company	54,000.00
Chicago, Milwaukee & St. Paul Ry. Co.	108,000.00
Atchison, Topeka & Santa Fe Ry. Co.	15,000.00
Kansas City & Northwestern Railway, K. S. L. to Virginia	525,875.00
	$306,741,825.00

307 Mr. Clark: I now offer in evidence Exhibit B excepting the last two columns thereon. The headings so excepted being "% of average value" and "% of increase or decrease by St. Bd." It is admitted that this is the statement issued by Mr. Osborne, as Secretary of the State Board, demonstrating its official results as set forth in the four first columns.

Which said document, marked Exhibit "B," so offered and received in evidence, is attached hereto as follows:

County.	Average transfer price.	Average value adjusted.	Returned to St. board.	Equalized by St. bd.	% of average value.	% of increase or decrease by St. bd.
Cass	154.00	219.00	120.45	132.49	60	Inc. 10
Nemaha	162.00	165.50	132.28	119.07	71	Dec. 10
Otoe	150.00	173.64	138.22	124.40	71	Dec. 10
Richardson	151.00	151.22	106.34	106.34	70	0
Sarpy	110.00	175.53	123.85	123.85	70	0
Douglas	267.70	257.08	185.95	167.36	65	Dec. 10
Burt	164.00	192.94	177.67	151.02	78	Dec. 15
Cuming	171.00	207.58	158.89	143.01	68	Dec. 10
Dodge	196.00	207.65	140.32	140.32	67	0
Washington	214.00	204.13	197.04	157.25	77	Dec. 15
Wayne	174.73	174.04	178.37	133.78	76	Dec 25
Dakota	163.00	149.37	112.92	112.92	75	0
Thurston	163.00	175.38	158.60	134.81	70	Dec. 15
Cedar	132.00	146.88	135.00	114.75	78	Dec. 15
Dixon	No Sales	Transfer	99.00	108.90	..	Inc. 10
Madison	129.00	128.74	120.63	102.54	79	Dec. 15
Pierce	124.00	126.49	86.12	90.42	71	Inc. 5
Stanton	138.00	144.25	115.80	110.05	70	Dec. 5
Butler	195.65	194.24	105.29	131.60	67	Inc. 25
Colfax	194.79	192.95	159.94	132.45	63	Dec. 15
Platte	157.31	163.64	111.41	122.47	74	Inc. 10
Polk	103.01	103.00	108.20	129.84	78	Inc. 20
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Seward	162.77	172.08	100.69	120.72	70	Inc.	20
Gage	123.00	129.24	87.00	91.35	70	Inc.	5
Johnson	122.00	129.26	112.46	95.60	73	Dec.	15
Pawnee	113.22	108.38	80.96	80.96	74		0
Jefferson	107.80	113.12	81.33	81.33	71		0
Nuckolls	98.24	97.90	61.85	71.12	72	Inc.	15
Thayer	95.00	98.44	85.21	72.43	73	Dec.	15

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Fillmore	130.70	136.52	99.51	99.51	72		0
Hamilton	140.80	142.07	101.25	101.25	71		0
York	150.00	159.27	103.12	108.27	67	Inc.	5
Adams	112.33	110.36	84.48	84.48	76		0
Clay	126.00	133.73	107.35	96.62	72	Dec.	10
Hall	99.06	103.47	65.18	74.91	72	Inc.	15
Merrick	108.20	117.14	66.95	76.98	65	Inc.	15
Boone	105.00	128.07	78.96	82.90	64	Inc.	5
Nance	115.00	119.34	75.85	79.64	66	Inc.	5
Antelope	79.00	83.18	80.45	64.36	77	Dec.	20
Boyd	Sale Value	Not Reliable	51.54	51.54	..		0
Knox	85.00	91.25	62.63	62.63	73		0
Holt	41.00	37.41	20.59	24.69	65	Inc.	20
Garfield	21.00	29.40	14.47	17.33	58	Inc.	20
Loup	14.43	13.61	8.35	9.17	67	Inc.	10
Wheeler	23.00	27.76	15.37	16.90	60	Inc.	10
Brown	17.00	20.40	10.50	11.55	56	Inc.	10
Keya Paha	21.00	22.50	12.65	12.65	56		0
Rock	No Sale	Transfers	10.68	10.68	..		0

EXHIBIT "B."—*Continued.*

County.	Average transfer price.	Average value adjusted.	Returned to St. board.	Equalized by St. bd.	% of average value.	% of increase or decrease by St. bd.
Greeley	63.00	73.86	48.82	48.82	65	0
Howard	76.76	81.51	53.62	53.62	65	0
Sherman	60.74	58.80	46.06	46.06	78	0
Valley	68.18	70.89	56.09	47.65	67	Dec. 15
Buffalo	90.00	96.73	45.96	55.15	56	Inc. 20
Dawson	64.50	65.24	60.71	48.57	74	Dec. 20
Kearney	76.00	87.52	67.06	60.36	68	Dec. 10
Phelps	77.00	89.21	56.52	59.32	66	Inc. 5
Franklin	54.00	64.40	51.70	46.53	70	Dec. 10
Harlan	57.00	55.20	38.03	38.03	68	0
Webster	67.00	73.23	58.71	52.83	72	Dec. 10
Furnas	40.00	50.40	31.42	34.56	68	Inc. 10
Gosper	41.00	49.41	37.57	33.82	68	Dec. 10
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Frontier	31.00	29.74	19.98	19.98	66	0
Red Willow	30.00	33.80	27.99	25.20	74	Dec. 10
Chase	35.00	30.62	12.00	16.80	54	Inc. 40
Dundy	18.00	27.90	12.32	17.74	52	Inc. 20
Hayes	20.00	18.85	14.82	12.60	66	Dec. 15
Hitchcock	27.45	30.85	23.58	21.23	68	Dec. 10
Custer	45.00	49.98	22.25	28.92	57	Inc. 20
Keith	29.00	26.42	15.10	17.36	65	Inc. 15

Lincoln	22.00	27.81	9.23	13.84	49	Inc.	50
Perkins	32.27	32.23	21.64	21.64	68		0
Arthur	18.60	8.99	.....	.....	..	.....	
Logan	14.00	14.28	14.02	9.82	68	Dec.	30
McPherson	8.00	8.66	6.79	6.11	70	Dec.	10
Blaine	6.90	7.53	5.48	5.48	74		0
Cherry	8.00	10.80	7.82	7.82	72		0
Grant	7.58	7.09	3.62	4.34	61	Inc.	20
Hooker	7.00	8.05	4.78	4.78	59		0
Thomas	7.00	11.90	5.70	6.84	57	Inc.	20
Garden	12.00	15.60	13.50	11.49	73	Dec.	15
Sheridan	17.55	15.10	8.63	8.63	57		0
Cheyenne	49.00	52.92	26.27	31.52	59	Inc.	20
Deuel	56.08	59.79	30.72	33.79	58	Inc.	10
Kimball	29.56	30.25	21.11	21.11	69		0
Morrill	22.00	24.04	11.68	14.01	58	Inc.	20
Banner	28.00	13.57	11.85	9.48	70	Dec.	20
Sioux	15.00	15.60	8.71	8.71	55		0
Box Butte	27.49	23.42	8.55	11.11	47	Inc.	30
Dawes	32.65	19.96	12.08	12.08	60		0
Scotts-Bluff	83.00	111.39	40.00	48.00	62	Inc.	20

311 Mr. Clark: We now offer in evidence Exhibit "C" being two sheets, consisting of four columns. It is admitted that this is a statement issued by the Secretary of this Board showing its official results after the equalization in 1920, the third column thereof giving the per cent of average value accurately and of increase or decrease which is excepted on Exhibit "B."

Which said document marked Exhibit "C" so offered and received in evidence, is attached hereto as follows:

312 **Exhibit "C."**

County.	Returned to State board.	Equalized by State board.	% increase or decrease.	Assessed total value as equalized.
Cass	120.45	132.49	Inc. 10	13,803,005.00
Nemaha	132.28	119.07	Dec. 10	8,735,761.00
Otoe	138.22	124.40	" 10	13,971,091.00
Richardson	106.34	106.34	0	11,075,880.00
Sarpy	123.85	123.85	0	6,754,989.00
Douglas	185.95	167.36	Dec. 10	70,546,063.00
Burt	177.67	142.14	Dec. 20	11,818,680.00
Cuming	158.89	143.01	" 10	13,679,147.00
Dodge	140.32	140.32	0	15,548,027.00
Washington	185.00	148.00	Dec. 20	10,256,661.00
Wayne	178.37	133.78	" 25	10,338,675.00
Dakota	112.92	112.92	0	5,185,092.00
Thurston	158.60	134.81	Dec. 15	7,379,834.00
Cedar	135.00	114.75	Dec. 15	14,987,748.00
Dixon	99.00	99.00	0	8,585,203.00

[illegible]dison	120.63	102.54	Dec. 15	13,060,427.00
Pierce	86.12	90.42	Inc. 5	9,179,116.00
Stanton	115.90	115.90	0	8,366,290.00
Butler	105.29	126.34	Inc. 20	13,180,332.00
Colfax	159.94	132.45	Dec. 15	9,980,573.00
Platte	111.41	116.98	Inc. 5	14,738,513.00
Polk	108.20	113.61	" 5	8,754,591.00
Saunders	116.90	128.59	" 10	17,137,044.00
Lancaster	121.72	115.67	Dec. 5	37,800,358.00
Saline	129.18	109.81	" 15	12,057,343.00
Seward	100.60	110.66	Inc. 10	11,401,122.00
Gage	87.00	91.35	Inc. 5	16,473,344.00
Johnson	112.46	95.60	Dec. 15	6,621,776.00
Pawnee	80.96	80.96	0	6,928,784.60
Jefferson	81.33	81.33	0	9,803,037.00
Nuckolls	61.85	68.03	Inc. 10	7,437,666.00
Thayer	85.21	72.43	Dec. 15	8,397,079.00
Fillmore	99.51	99.51	0	10,555,957.00
Hamilton	101.25	101.25	0	10,186,695.00
York	103.12	108.27	Inc. 5	12,878,200.00
Adams	84.48	84.48	0	11,840,908.00
Clay	107.35	91.25	Dec. 15	10,190,014.00
Hall	65.18	71.69	Inc. 10	10,402,505.00
Merrick	66.95	73.64	" 10	7,462,622.00

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EXHIBIT "C."—*Continued.*

County.	Returned to State board.	Equalized by State board.	% increase or decrease.	Assessed total value as equalized.
Boone	78.96	82.90	" 5	10,362,197.00
Nance	75.85	79.64	" 5	6,314,188.00
Antelope	80.45	60.34	Dec. 25	9,479,913.00
Boyd	51.54	51.54	0	515,981.00
Knox	62.63	62.63	0	11,634,625.00
Holt	20.59	20.59	0	8,779,661.00
Garfield	14.47	15.91	Inc. 10	1,686,316.00
Loup	8.35	9.17	" 10	907,602.00
Wheeler	15.37	15.37	0	1,221,373.00
Brown	10.50	10.50	0	2,713,585.00
Keya Paha	12.65	12.65	0	1,711,257.00
Rock	10.68	10.68	0	2,044,726.00
Greeley	46.06	41.46	0	4,595,417.00
Howard	53.62	53.62	0	6,254,184.00
Sherman	46.06	41.46	Dec. 10	4,595,417.00
Valley	56.09	47.65	" 15	5,598,583.00
Buffalo	45.96	55.15	Inc. 20	11,819,308.00
Dawson	60.71	48.57	Dec. 20	10,870,647.00
Kearney	67.96	60.36	Dec. 10	6,216,315.00

Franklin	38.03	38.03	0	4,952,979.00
Webster	58.71	52.83	Dec. 10	6,316,696.00
Furnas	31.42	34.56	Inc. 10	5,934,518.00
Gosper	37.57	33.82	Dec. 10	3,013,554.00
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Frontier	19.98	19.98	0	3,959,709.00
Red Willow	27.99	25.20	Dec. 10	4,844,291.00
Chase	12.00	14.40	Inc. 20	2,496,192.00
Dundy	12.32	12.32	0	3,071,627.00
Hayes	14.82	14.82	0	1,803,187.00
Hitchcock	23.58	21.23	Dec. 10	3,487,375.00
Custer	22.25	24.47	Inc. 10	12,352,899.00
Keith	15.10	16.61	Inc. 10	4,424,130.00
Lincoln	12.56	15.70	Inc. 25	8,049,580.00
Perkins	21.64	21.64	0	3,527,504.00
Arthur	.....	.....	.....	.....
Logan	14.02	9.82	Dec. 30	1,162,647.00
McPherson	6.79	6.79	0	931,141.00
Blaine	5.48	5.48	0	883,410.00
Cherry	7.82	6.26	Dec. 20	8,624,597.00
Grant	3.62	4.34	Inc. 20	1,372,135.00
Hooker	4.78	4.78	0	1,010,842.00
Thomas	5.70	5.70	0	1,056,124.00
Garden	3.50	11.49	Dec. 15	3,577,582.00
Sheridan	8.63	8.63	0	5,047,206.00

EXHIBIT "C."—*Continued.*

County.	Returned to State board.	Equalized by State board.	% increase or decrease.	Assessed total value as equalized.
Cheyenne	26.27	26.27	0	6,805,501.00
Deuel	30.72	30.72	0	3,152,519.00
Kimball	21.11	21.11	0	4,234,492.00
Morrill	11.68	11.68	0	3,898,329.00
Banner	11.85	11.85	0	1,253,026.00
Sioux	8.71	8.71	0	3,218,587.00
Box Butte	8.55	10.26	Inc. 20	3,176,191.00
Dawes	12.08	12.08	0	4,543,355.00
Scottsbluff	40.00	44.00	Inc. 10	6,812,826.00
Assessed Grand Total				$775,949,730.00

315 Mr. Clark: Complainants offer in evidence Exhibit "D," being a plan and explanation of procedure of this Board, by its Secretary, and also by Mr. Bross, Secretary of the Department of Finance, referring to the equalization of the year 1920. It is also admitted that Exhibit "D" is a plan finally adopted by this Board and followed in the equalization of A. D. 1920.

Which said document, marked Exhibit "D," so offered and received in evidence is attached hereto as follows:

Exhibit D.

"To the State Board of Equalization and Assessment:

In accordance with the request of your Board and in compliance with the motion passed at the meeting of the County Assessors and others representing the different counties of the State, a tentative plan of equalization between the counties of lands and improvements is herewith submitted for your consideration:

Before the assessment period began, a list of transfers of lands in the different counties, from July 1, 1918 to July 1, 1919, was secured from the proper county officials. The list as sent in gave the number of transfers, the description of the land, number of acres, consideration, and 1919 assessed value of the same acres.

When these lists were received, they were carefully checked over and transfers which plainly showed they were not bona fide
316 sales were not used in compiling the average sale value for the county. These tabulations showing the average sale value for each precinct were furnished to each precinct and county assessor and they were instructed by the Department and by the Association of County Assessors to follow the law and fix the assessed value of all lands and improvements, as well as all other property, at the actual cash market value in the ordinary course of trade.

For the purpose of equalization between counties, it would hardly have been fair and just to take the average sale value as shown by the transfers. Good land might have been selling in one county while a cheaper grade of land was selling in another county. To correct this discrepancy, the assessed value for 1919 of the lands shown on the transfers was compared with the average assessed value of the county and this ratio was applied to the average sale value as shown in the transfers to establish the sale value per acre of the county which is shown in the second column of the prepared tabulation.

For instance, the average sale value of the transfers for Douglas county showed a sale value of $267.70 and these same acres were assessed for an average of $100.90. The average assessed value of the whole county was $96.90. To establish the sale value of Douglas County 96.90—100.90 of $267.70 is taken which gives $257.08 as the sale value. In other words, as the assessed valuation of the lands sold is to the consideration shown by the transfers, so the assessed valuation of the entire county is to the selling value thereof.

The average value was established as above stated for practically each county, and this was used as the basis for the suggested equalization. In two counties, the list of transfers was never furnished and in one or two other instances, the lists furnished were not complete, or plainly showed that they were not reliable.

This method of establishing the average value per acre for a county has long been used by the Tax Commission of Wisconsin and has also been adopted by the Tax Commission of Minnesota.

The use of sales records and the adjusted average value for equalization purposes between counties makes a uniform and re-
317 liable plan which should fairly and justly equalize the real estate assessment between counties. The relative assessment of the different grades of land within a county cannot be considered by the state board. The precinct assessors, county assessors and the County Boards determine the different grades of land within a county and assess them accordingly. The State Board only deals with the average of the county as compared with the average of the other counties of the state.

As has been stated, each county and precinct assessor was instructed to follow the law and, with all the information he could secure, including the record of the sale averages, assess all real estate and improvements at the actual market value.

The abstracts of assessment have been received covering lands and improvements for all the counties except Arthur. The returns show that the precinct assessors and other local assessing officials throughout the State have placed a value on lands and improvements which average over 68% of the average value as established by the ratio process based on actual sales. It would seem only fair and just that the State Board would accept this average valuation established by almost 2,000 precinct assesors and in equalizing the land and improvements between the counties, maintain, as nearly as possible, for each county, an assessed actual valuation of 68% of the actual value as established by the ratio process.

The suggested equalization has been carried out with this end in view and the percentages shown in column five approximate 68%. In preparing the tabulation, adjoining counties have been grouped together for comparison purposes.

In counties where the assessment was returned at approximately 68%, no change has been made. In some counties, the equalization to the 68% average would have made so great a percentage of change that it would have, without doubt, established within that county an unfair assessment of lands and improvements in comparison with other classes of property. As the sales are for only one year, in some cases it has seemed wise to take other information into consideration in equalizing some of the counties.

318 As directed by your Board yesterday, the counties where an increase is contemplated, have been notified and August 6th was set by your Board for hearing any protest. Besides advising counties where a raise is suggested, the tabulation showing the proposed changes by the State Board have been sent to the clerks, assessors and county boards of all counties.

If the different grades of land within a county have been properly equalized by the county officials, obviously no injustice is done any county or taxpayer, if the lands and improvements are equalized as between counties on the basis of actual valuation as determined by the ratio process from actual sales. Courts recognize the price paid for similar property in the vicinity as the best evidence of value. A normal sale represents the judgment of both purchaser and seller as to the value of the property sold—one parts with his money and the other with his property on the basis of the consideration paid. When the sales cover a year's period and are averaged for each county and for the State; and when the assessed valuation of the lands sold is compared with the average assessed valuation of the county, no injustice will be done any county in establishing this basis for equalization purposes. Philip F. Bross, Secretary Department of Finance. W. H. Osborne, Jr., Secretary State Board of Equalization.

Exhibit "D."

319 Mr. Clark: Complainants offer in evidence Exhibit "E," being a statement by this Board of the results of its 1920 equalization. It is admitted that the facts herein contained are true.

Which said document, marked Exhibit "E," so offered and received in evidence is attached hereto as follows:

320 **Exhibit "E."**

Statement by the State Board of Equalization.

In the matter of equalization between counties, the State Board has adhered to the early announced plan of accepting for valuation purposes the average value placed on lands and improvements by the precinct and county assessing officials. For equalization between counties, the value returned by the assessing officials of each county has been compared with the average real value, as established by the ratio process, based on bona fide sales from July 1, 1918, to July 1, 1919. The equalization of the counties on the basis of the sale average was requested of the Board at the meeting of the assessing officials of the Counties held July 20th, 1920. The ratio process, used in correcting the sale averages, is the plan used by Wisconsin for a number of years, and Minnesota and other states have adopted the same plan.

Under this plan of equalization, the State Board has the combined judgment, as to value, of the assessing officials of the counties and of the buyers and sellers of real estate for a year's period. The year taken was previous to the land boom and does not cover the period of the highest prices.

The valuations as returned by the County Boards averaged 68% of the real value, as determined by the ratio process, and the State Board adopted this 68% as the basis for equalization purposes.

The Board has recognized throughout that land sales represent more or less speculative value, and for this reason it would see that the per cent taken of the real value is a just valuation for assessment purposes.

The returns from the counties were either increased or decreased as was found necessary, to approximate the 68% of the real value. In most cases, where the returns came in near the 68% average, no change was made. In some cases it was felt a decrease, large enough to bring the returns to the 68% average, might be unfair and interfere with the valuation necessary for the county levy. In other cases, it appeared that an increase, large enough to bring a county up to the 68% average, might be unjust and unreasonable.

That the Board has adhered very closely to the above plan is shown by the fact that the average real value, as determined by the ratio process, for the state was $94.33, and the average value for assessment purposes $64.98, or 68%.

Under this plan, the Board has accepted and adopted the average valuation of the local assessing officials. In making this equalization the State Board has decreased the total value of lands and improvements of the State $91,317,440.00 or $18,263,549.00 assessed value. The record shows that the State Board in 1916, increased the value of lands and improvements when they made the equalization, while this Board, as above stated, has decreased the total assessed value $18,200,000.00.

After the equalization by the State Board, some of the more important classes of property show the following increases for
321 the four year perod, 1916-1920:

	1916.	1920.	Per c... Increa...
Lands and Improvements..	$266,460,319	$433,645,488	62
Lots and Improvements....	79,567,452	110,984,397	39
Money on Land.....	5,508,665	11,323,775	105
Automobiles.....	4,192,375	15,391,906	266
Merchandise.....	10,345,525	19,814,314	91
Value of Interest on State Lands.....	511,686	738,884	44
Improvemer... Leased Lands..	1,313,042	1,726,729	31
Hogs	3,099,528	5,782,335	86
Sheep	143,007	461,788	189
Horses	12,985,586	11,729,435	(Decrea...
Cattle	15,829,806	22,995,883	45
Mules	1,958,433	2,131,812	
Total Live Stock....	$34,016,370	$43,041,253	26
Shares in Bank Stock.....	7,718,128	10,487,057	35
Total Personal Property.....	$154,834,316	$231,319,875	49
Grand Total	$500,873,016	775,949,730	55

During the six years previous to 1919 the increase of total assessed value of all property was 20%. During that same period of six years, the assessed valuation of railroads was not increased by the State Board as then composed, except a small amount—$1,026,125, due to increased mileage. This year, the assessed valuation of the railroads was increased by $5,500,282.00 and the terminal assessments have been increased about the same percentage as the town property.

The following table will show the assessed valuation of railroads for the last eight years, and that the only material increase is the raise given by the State Board this year:

1913.....	$55,829,328.00	1917.....	$56,855,453.00
1914.....	55,945,074.00	1918.....	56,855,453.00
1915.....	55,945,074.00	1919.....	56,867,503.00
1916.....	56,833,234.00	1920.....	61,367,785.00

In this connection, it is interesting to note the average per mile assessed valuation of railroads in the surrounding states. The following table shows plainly that the railroads are assessed at a greater value in Nebraska than in the other states:

	Northwestern.	Union Pacific.	Burlington.
Nebraska	37,975	74,711	46,040
Kansas.....	.....	42,000	25,600
Colorado	.....	40,732	47,218
Wyoming	27,022	52,000	33,179
South Dakota	30,500	.....	40,580
North Dakota	24,650		
Illinois	42,500		
Iowa	38,500		

322 (Wyoming figures are for 1919. Others for 1920.)

(The double track and other improvements on the Northwestern in Illinois and Iowa accounts for the higher valuation in those states.)

The increase in valuation this year need not bring about any material increase in taxes. Except for possibly certain fixed levies, tax levies for every tax subdivision should be reduced so that only the necessary revenue will be raised. The State Board has no control over local levies but if local authorities reduce the tax levies based on the increased valuation over 1919, there should be no great increase in taxes paid this year over 1919. It should be borne in mind that only 19 cents out of every dollar of tax goes to the support of the state government, while 81 cents is for local purposes.

Exhibit "E."

323 Mr. Clark: Complainants now offer in evidence Exhibit "F," which is admitted to be an accurate copy of the resolution adopted by the State Assessors March 19th, 1921, and that the

latter half of the page contains the instructions issued and given to each of the County Assessors of the State under said resolution.

Which said document, marcker Exhibit "F" so offered and received in evidence, is attached hereto as follows:

324 **Exhibit "F."**

State of Nebraska,

Department of Finance,

Bureau of Revenue and Taxation,

Lincoln.

To the county assessor addressed:

Resolution Adopted at State Assessors' Meeting March 18, 1921.

At a meeting of the County Assessors held at Lincoln, Nebraska on March 18th, 1921, the following resolution introduced by Harry W. Scott of Pawnee City, was adopted:

Whereas, There has been an expression representing the sentiment of sixty-four Counties and the result of such expression seems to average fifteen per cent reduction under 1920 real estate values,

Therefore, Be it resolved that it be the sense of this meeting that the aggregate returns of the value of real estate in each county be returned to the State Board at not to exceed a fifteen per cent reduction.

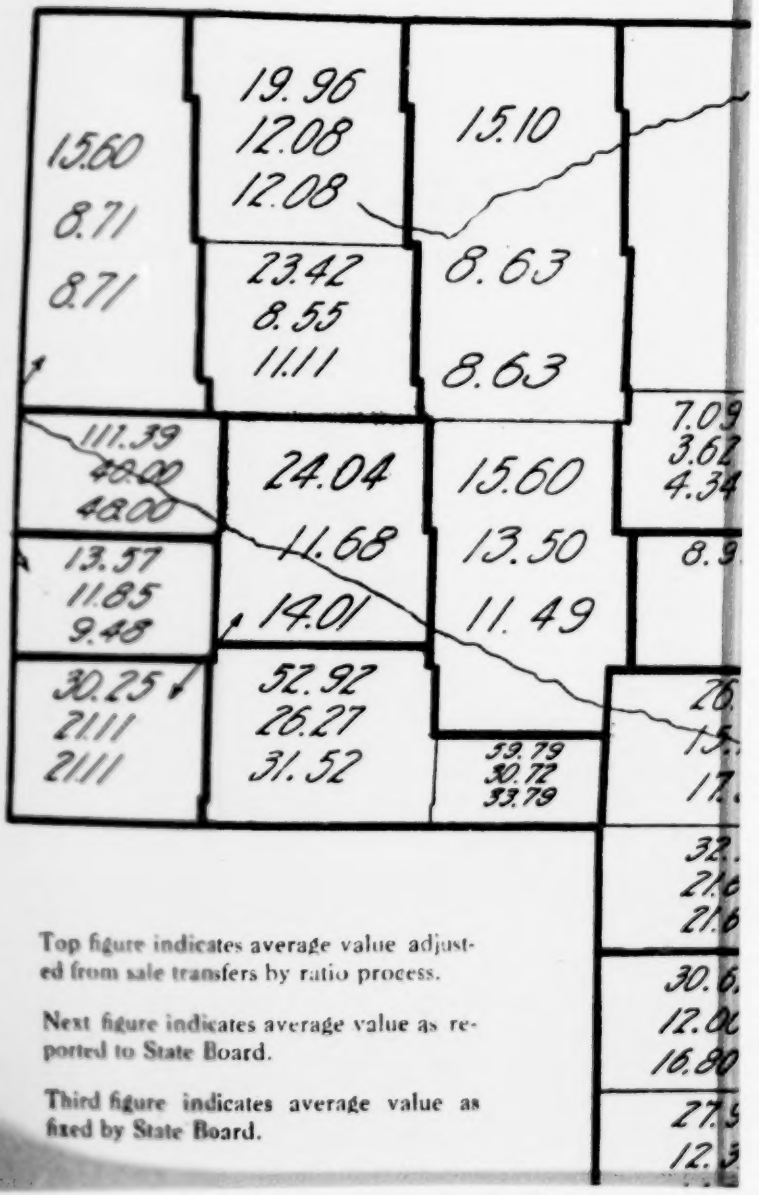
It being understood that this shall in no way be binding upon any county, but merely suggests a uniformity of action.

Dated this 19th day of March, 1921. G. L. Mumford, Sec'y-Treas.

The above and foregoing is a verbatum copy of a resolution adopted by the County Assessors of the State at their meeting held in the City of Lincoln, on March 18th, 1921, and it is requested by this department that you read the resolution over carefully, so that the result of their labors will be in accordance with the thought of the conference. We very much desire to avoid the neces-

325 sity of being compelled to again equalize to any great extent by counties this year, feeling as we do, that we have a very good equalization over the State at this time, but where the occasion demands the State Board will not shirk its duty to fairly and equitably raise or lower any county to the end that each bears its just relation, one to the other.

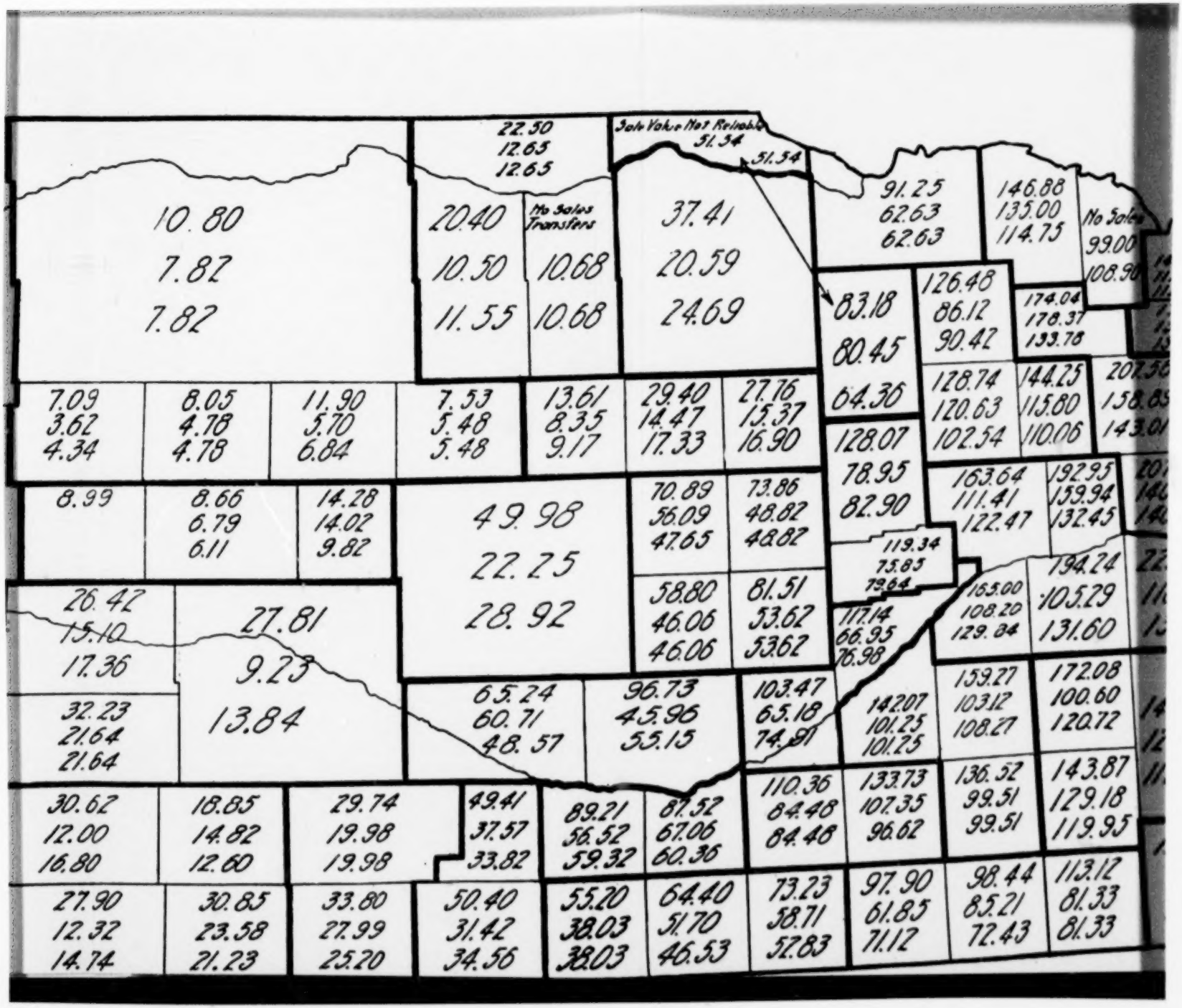
The unexpected passage of this emergency law makes it impossible for this department to follow up any figures to assist you and you will have to rely on last year's figures, together with your knowledge of your local county and in addition to this, follow the instructions from this department and the law governing your duties. Respectfully submitted, Philip F. Bross, Secretary, Department of Finance. W. H. Osborne, Commissioner.



Top figure indicates average value adjusted from sale transfers by ratio process.

Next figure indicates average value as reported to State Board.

Third figure indicates average value as fixed by State Board.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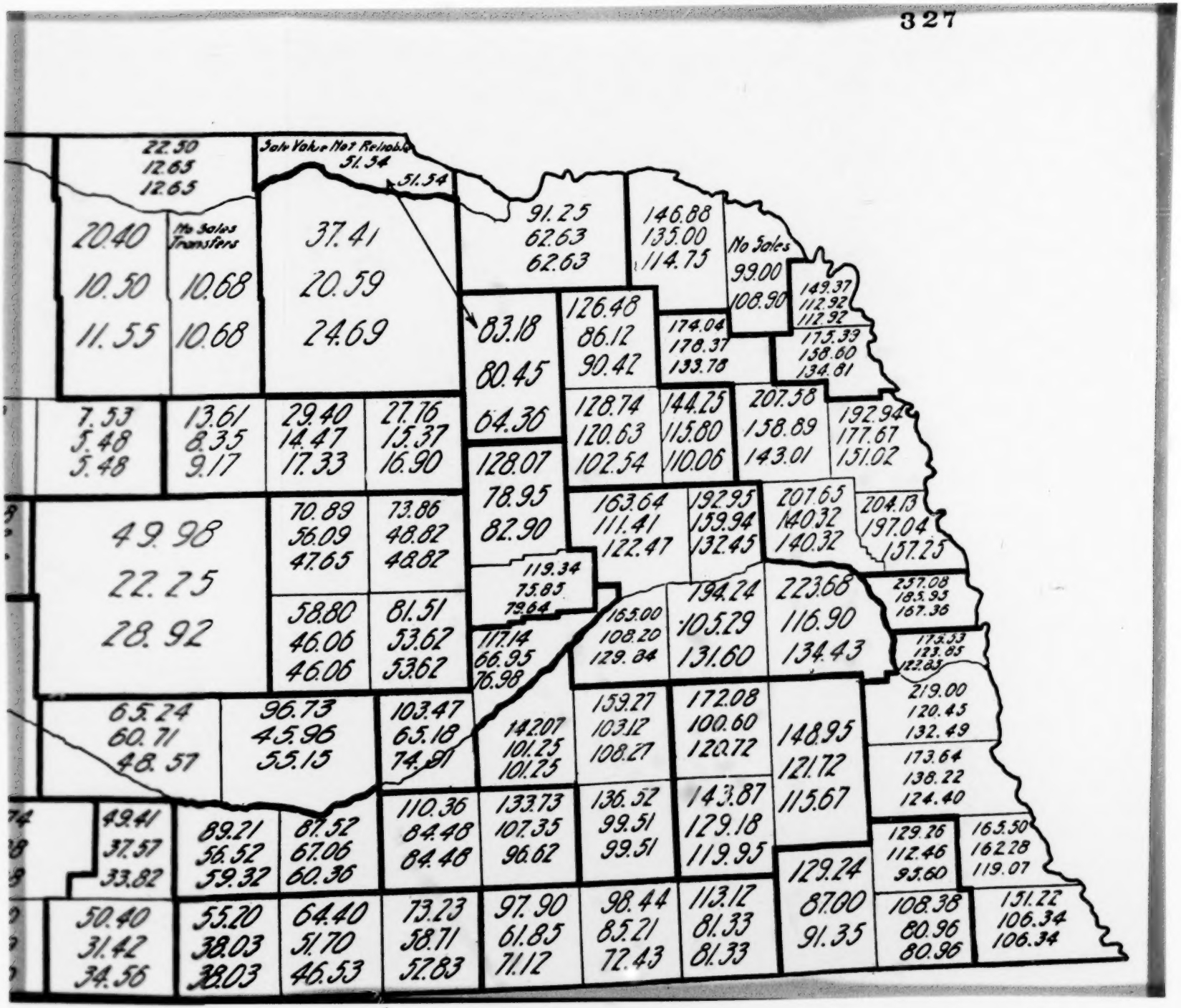
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326 Mr. Clark: Exhibit "G" is now offered in evidence, being a skeleton map of the State of Nebraska, showing the exterior boundary lines of each county therein, each space representing a county having figures thereon which are explained by the legend being three notes in the lower left hand corner of the sheet marked as Exhibit "G." This sheet being subject to revision and correction by Mr. Osborne.

Which said document, marked Exhibit "G," so offered and received in evidence, is attached hereto as follows:

(Here follows Exhibit "G," marked page 327.)

328 Mr. Clark: Complainants now offer in evidence Exhibit "H," being the resolutions adopted by this Board assessing and valuing their respective railroads and the properties thereof, for the year A. D. 1921, found in the Secretary's record on pages 277 and 278.

Which said document, marked Exhibit "H," so offered and received in evidence, is attached hereto as follows:

329 **Exhibit "H."**

The following resolution was adopted:

Resolved: That we, the State Board of Equalization and Assessment, in regular session held for the purpose of valuing and assessing the railroads in the State of Nebraska for the purpose of taxation of their property in the said state and having given due and full consideration to the returns furnished said Board by the several railroad companies, and having taken into consideration the main track, side track, spur track, warehouse tracks, road bed, right of way and depot grounds and all machinery, rolling stock, telegraph lines and instruments connected therewith, all material on hand and supplies, moneys, credits, franchises and all other property of said railroad companies and, having taken into consideration the gross and net earnings of said railroads, the total amount expended in operation and maintenance, the dividends paid, the capital stock of each system or road, and the market value thereof, and the total amount of secured and unsecured indebtedness, and from all the information which we were able to obtain do hereby ascertain, appraise, fix and assess for the purposes of general taxation the full actual value of the property of each of the several systems or companies in the State of Nebraska, as hereinafter recited:

330

Chicago, Burlington & Quincy Railroad Co...	$131,639,875.00
Union Pacific Railroad Company	90,469,245.00
Chicago & Northwestern Railway Co.	40,350,715.00
Chicago, St. Paul, Min. & Omaha Ry. Co.	13,698,855.00
Chicago, Rock Island & Pacific Ry. Co.	11,502,985.00
Missouri Pacific Railway Co.	12,806,140.00

St. Joseph & Grand Island Railway Co.	3,971,895.00
Mason City & Fort Dodge Railway Co.	540,000.00
Omaha & Lincoln Railway & Light Co.	99,450.00
Omaha Bridge & Terminal Railway Co.	648,000.00
Omaha, Lincoln & Beatrice Railway Co.	101,805.00
Omaha & Southern Interurban Railway Co.	90,000.00
Illinois Central Railway Co.	54,000.00
Wabash Railroad Co.	54,000.00
Chicago, Milwaukee & St. Paul Railway Co.	108,000.00
Atchison, Topeka & Santa Fe Railway Co.	15,000.00
Kansas City & Northwestern Ry. K. S. L. to Virginia	487,855.00
North Platte Valley Railway Co.	376,552.00
Total	$306,960,372.00

331 Mr. Clark: Complainants offer in evidence Exhibit "I" for the use of either party hereto, the same being instructions in A. D. 1921 to the County and Precinct Assessors by W. H. Osborne, Jr., Tax Commissioner, and approved by this Commission.

Which said document, marked Exhibit "I," so offered and received in evidence, is attached hereto as follows:

332 **Exhibit "I."**

"K-B No. 629.

Uniform Instructions to County and Precinct Assessors for the Year 1921 as Approved by the Nebraska Tax Commission.

W. H. Osborne, Jr., Tax Commissioner.

Printed by K-B Printing Co., K-B.

Omaha.

333 Uniform Instructtions to County and Precinct Assessors for the Year 1921 as Approved by the Nebraska Tax Commission.

W. H. Osborne, Jr., Tax Commissioner.

334 *Instructions to Assessors.*

Nebraska Tax Commission.

Lincoln, Nebr., Feb. 17, 1921.

To County and Precinct Assessors:

The following revised instructions are to be observed in the assessment of property both real and personal in the State of Nebraska for the year 1921.

The past years it has been the custom of each County Assessor to issue his own individual instructions to his Precinct Assessors, and the result was, that the assessing authorities of the 93 Counties in the State were working under that many different sets of instructions.

We ask that each Assessor study the instructions carefully, so that when his work is completed he will have the satisfaction of knowing that his work has been done according to law.

It is the belief of this department that by the use of these uniform instructions, it will be the means of a more equitable distribution of the tax burden, and a decided improvement over the discarded method.

We can hardly expect to lessen the tax burden for some time to come but the public has the right to demand that taxes shall be equally distributed, and while I appreciate the difficulty of your task, yet I am confident that considerable progress can be made if we will all do our best.

If this department can be of any assistance to you at any time, feel at liberty to command us. W. H. Osborne, Jr., Tax Commissioner.

To the Precinct Assessors of Nebraska, Greetings:

1. Remember, we have no friends to favor nor enemies to punish. We desire to conform to the laws on revenue which specifically tell us that values shall be the actual value as found in the ordinary course of trade. If in doubt regarding any question seek information from the proper authority.

2. We will take up first, the personal property schedule. The total number of items of the main schedule has been reduced to fifty-three items. Some of the items heretofore mentioned in 35 the main schedule, have been transferred to Special Schedules "A" and "B." The live stock classification has been made a part of the main schedule.

3. Exercise care in getting the full name and proper post office address plainly written. Get the age, the section on which the tax payer resides, school district number and road number, and if the party assessed is a male above the age of 21 and not over 50, enter the amount of $2.50 under the item Poll Tax. Persons living in incorporated villages who are liable by the provisions of the law regulating cities and villages, to pay the poll or labor tax or work upon the streets thereof, shall not be assessed to pay the tax provided for in this section. Refer to Sections 6457-7165-2496 and 963 of the Revenue Law for Exemptions. A discharged soldier is not exempt from Poll Tax. Be sure to have the party listing property sign the oath in every case.

4. Be sure to get the name of the precinct, or village in which the property is located. If in the village or not, write "Yes" or "No," as the case may be, in the squares at the head of the schedule.

5. You are now ready to proceed to assess the property. You will notice that each item bears a number on the schedule. Proceed by

asking the party whether he owns such property as designated under the item numbers, or special schedules.

Should he have property under any such items you shall ascertain the fair market value (See Section 6309). Enter the amount of such value in the column provided. Do not use any value that is not evenly divisible by five.

Special Schedule "A."—Section 2 of Article VIII of the Constitution provides "Household goods of the value of Two Hundred Dollars ($200.00) to each family shall be exempt from taxation. The schedule provides for the assessments of household goods under Special Schedule "A." It will be absolutely necessary under the present schedule to itemize the items under this heading. Remember that there is an unusual amount of property in the State under this schedule that is being undervalued. Do not make any lump sum assessment for household and allow the exemption to only one member of the family.

Special Schedule "B."—This schedule provides for the assessment of farm machinery and equipment. It must not be neglected and the matter of values should be carefully considered.

336 Special Schedule "C."—This schedule is to be used in detail on the assessment of merchants, automobile dealers, peddlers, and in fact every person or business that has on hand the first day of April a stock of merchandise of any character. The value of such stock shall be considered one hundred cents on the dollar, as shown by such merchants' inventories.

We are prepared to take up the items on the main schedules and you shall proceed as follows:

Item No. 1. Cattle.—The value of cattle varies very little on the average and you are in the position to ascertain this value better than any one else. The law says "Market Value." That is all we want. This does not mean that a thoroughbred animal should be computed at its beef value, but at its actual value as shown by sales in your community. To arrive at the market value of such property the County Assessor will provide a schedule of values as ascertained from live stock market reports on April first. Use your market value less the expense of putting such property on the market. A cow and a calf count as one head. A yearling means an animal born last season, and may be a few months under or a few months over such age. The same applies to either ages.

Item No. 2. Horses.—The value of a horse cannot be ascertained by its age. This value varies greatly according to class of horse and the matter of age is used principally for classification. You should arrive at that value from your knowledge of sales of animals of like character.

Item No. 3. Mules.—This should be handled in the same manner as item No. 2.

Item No. 4. All Credits.—This covers all notes, secured or unsecured judgments and allowances, bonds or annuities, in fact every part of written or printed obligations, and should be valued at its face value. Real Estate mortgages dated after July 1, 1911, are not assessable on the personal property schedule. A government pa

on is not assessable. Federal Land Bank mortgages being non-
sessable, no consideration should be given to them for taxation
rposes, either as an interest in the land or otherwise. Should you
ve reason to believe that the owner is not listing all of his credits,
should you have knowledge of any such property that should be
listed, you should report it to your County Assessor.

7 Item No. 5. Money on Hand, etc.—This covers all money
on hand or on deposit with any bank, trust company or in-
ridual. It looks bad for a comparison of the reports made by the
rious banks of the amount of deposits when such a small amount
reported by the assessor. The State Board of Equalization and
e Department of Finance, will exert every effort under the laws
the State to secure a complete and equitable return of all moneys
well as other intangible property.

Item No. 6. All Money Invested in Tax Sales.—This covers in-
tment in tax sales certificates and are worth one hundred cents
the dollar. Gather this information from your County Treas-
r.

Item No. 7. Fire and Burglar Proof Safes.—This item should not
included with other office fixtures, but should be listed separately.
ese are worth at present, in most instances, more than when
ginally purchased.

Item No. 8. All Money Paid to Building and Loan Association.—
ilding and Loan stock owned as an investment, is liable for taxes,
l the amount paid on such stock is the value to be taken for such
essment. If a borrower, the real estate pays the taxes.

Item No. 9. All Book Accounts.—This covers any amount that
y be due the party assessed, which is not in the form of a note or
er written or printed obligation. This convention has decided to
the instructions of the Federal Government, viz: That unless
h accounts have been found uncollectible, they shall be listed
one hundred cents on the dollar. Merchants are permitted to
duct their bills payable from their bills receivable, and notes pay-
e from their notes receivable.

Special Schedule "C" provides a form for doing this.

tem No. 10. All Shares of Stock, etc.—This covers the market
ue of any shares of stock that may be owned in any company that
ot assessed on its capital stock in this state under special schedule
ns.

tem No. 11. Capital of Elevator Men and Grain Brokers: Re-
to Section 6333.—Ascertain the gross amount of capital used by
kers for the year previous to April first, divide this total by 36 to
fix the average capital.

Deviate from this rule where equity would seem to demand.

Item 12. Office and Store Fixtures.—These consist of
nters and shelving, show or other display cases, scales, desks, or
er such property not specifically mentioned on the schedule and
attached to the building and forming a part of the real estate.

tem No. 13. Billiard and Other Tables.—This should cover bil-
d and pool tables found in private homes as well as in billiard
l pool halls.

Item No. 14. Steamboats, Rowboats, etc.—Not many steamboats but do not overlook the duck boats, motor and row boats.

Item No. 15. Patent Rights.—The value of a patent right depends upon the royalty received from it.

Item No. 16. Bicycles, etc.—These should be valued in the same manner as automobiles.

Item No. 17. Nursery Stock.—This should be valued in the same manner as mercantile stocks.

Item No. 18. Automobiles.—This item includes all motor vehicles. (Tractors are assessed under Schedule "B.") Be sure to get the data required. Value about as follows: In the hands of dealers, value at cost the same as other merchants' Stocks; in the hands of the user this year's models should carry a discount of 15 per cent; 1920 models, 25 per cent; 1919 models, 35 per cent; 1918 models, 50 per cent; 1916 models, 70 per cent. Base the value on the price such vehicles are sold for in your locality. Do not apply this rule to cars that have had unusual wear. There is a chance for a difference of opinion, settle the dispute at once.

Special Airplane Instructions.—No provision is made on the schedule proper for the listing of this class of property; there are a number of these machines in this State which should be listed for taxation. Exercise care in search of these and list them under item No. 52, making a note thereon of the number, so that the same may be carried forward to your abstract of assessment.

339 Item No. 19. Typesetting Machines, etc.—This item covers not only typesetting machines, but printing presses, and other equipment, found in publishing and printing plants.

Item No. 20. Moving Picture Machines, etc.—Not only get the machines, but remember that there are ticket registers, seating and stage equipment, if such are not assessed as a part of the building.

Item No. 21. Value of State Lands Under Contract.—This applies to School and State lands that have been sold under contract or are under lease by the party assessed. In case of contract assess the present value of the land, less the amount due the state. In case of leases, you should get the bonus asked for, assignment of the lease. There is hardly a school land lease in the State that is not worth a bonus.

Item No. 22.—Improvements on Leased Land, etc.—Under this item enter the value of improvements on railroad warehouse sites, school lands or private lands, and on homesteads not yet subject to final proof.

Item No. 23. Oil Stations.—This item is specially mentioned for checking purposes, and the value of the tanks and pumping equipments should be assessed here. Oil tanks and pumps owned by garages and retail dealers, should be assessed under Item No. 1. Do not overlook the oils contained in these tanks. This should be assessed as merchandise.

Item No. 24. Dogs.—Assess every dog at not less than $10.00. There are a number that are priced at $25.00 and $50.00.

Item No. 25. Poultry on Hand.—Assess poultry, this means

ucks, turkeys and geese as well as chickens, at not less than $10.00 er dozen.

Item No. 26. Hogs.—Ascertain the number of hogs and deter- ine the average weight. This data is required on the schedule. he home market value, less the expense of getting to market, shall etermine the price per pound. In the case of registered or thor- ughbred stock, value this according to sales in your locality, making ote on the schedule that such hogs are registered as thorough- bred.

40 Item No. 27. Sheep and Goats.—Value at market value, less cost of getting to market.

Item No. 28. Stands of Bees.—Assess these at not less than $5.00 ch.

Items Nos. 29 to 40, inclusive.—These items cover farm products nd are specifically mentioned for statistical purposes. Value this roperty at its home market value, less expense of getting to the arket, or at the value that such property is sold on the farm.

Item No. 41. Articles for Refining, etc.—This is a special item and ill probably be found in Douglas County only.

Item No. 42. This item covers a professional man's library, a rgeon's instruments and medicine, carpenter's and other mechanic's ols as may be found in garages or repair shops.

Item No. 43. Stocks in National or State Banks.—This covers tocks owned by the party assessed in other states. The assessment f banks in this state is made on a special schedule and the taxes paid y the bank. (Use special schedule 3 for home banks.)

Item No. 44. Property Itemized on Special Schedule "A".—Be are to bring the total of Special Schedule "A" to this item, being areful to use the schedule as intended. Make no lump sum assess- ents.

Item No. 45. Property Itemized on Special Schedule "B".—Be are to bring the total of Special Schedule "B" to this item.

Item No. 46. Merchandise, etc.—Use Special Schedule "C".—Be are to bring the total of Special Schedule "C" to this item.

Item No. 47. Jewelry and Diamonds according to value.

Item No. 48. Typewriting and Adding Machines.—Many of these re to be found in private hands, and offices, and should be assessed eparately from item No. 12.

Item No. 49. Cash Registers.—Many of these are found in 41 private hands and offices and should be assessed separately from item No. 12.

Item No. 50. Stock in Any Company or Corporation.—Owners of n interest in local telephones, elevators and co-operative companies hould be assessed under this item if the property is not regularly in- orporated and making its own returns.

Item No. 51. Franchises.—This item represents the value of privi- ges granted by various municipalities, and the value of the same hould be arrived at by determining its value.

Item No. 52. All Other Property.—This item should take care of ny property not specifically mentioned before, or of property that ay be brought into the State after the first day of April, and before

the first day of July; if the owner cannot show you a certified copy showing that such property has been assessed in some other county in the state for this year.

Item No. 53. Penalty.—In case of the refusal of the owner to list or to exhibit to you for listing any of his property, or subscribe to the oath you shall add under this item 50 per cent of the total value of such property as you may by actual knowledge list to such owner. In case you find it is necessary to list such property yourself under these conditions, you shall so state on the reverse side of the schedule and certify to the assessment of same.

You are now prepared to total Schedules. Do this carefully, seeing that the last figure is a 5 or a naught, divide, that total by five and enter this amount as the assessed value. You should at all times see that the value of each item is set down in multiples of five. Do not use cents or attempt to use a cent column.

You will notice on the reverse side of the schedule, four interrogatories. These must be answered, and in the event that the party being assessed is acting in any capacity as set forth in interrogatory No. 1, you shall make out a separate schedule covering that condition. This is important.

United States Bonds or Savings Stamps and Certificates of indebtedness are the only bonds exempt from taxation, but the interest on such bonds which have accrued, and has not been collected is taxable in the form of "Credits."

342 Remember that you are in the employ of the state and that your duties to the state do not end with the close of the assessment period, and should you know at any time during the year of any case where personal property is being sold and the owner is leaving the county or state, or the property is being levied on under execution, and in your opinion the county is liable to lose the tax, it is your duty to notify the County Treasurer at once so that the party may be detained and collection be made before the property is removed.

In obtaining signatures to the oath of the party listing the property impress upon him the seriousness of failure to include all of his property, as well as property belonging to his wife or children or property that he has under his control as caretaker, or other accounting condition. You should then date and sign the schedule in your official capacity as Precinct Assessor.

Remember that all property is subject to taxation; such property must be properly valued. People generally do not object to the payment of taxes, if they know that their neighbor is paying his just proportion.

Further Duties.—You are supplied with a book for agricultural statistics. This information is very essential, as it is compiled in connection with the Federal Report, and from these reports we obtain statistical information that is made use of by the proper authorities and such use becomes very necessary under our present conditions. Impress upon every person that this report is in no way made use of by the Department of Taxation and is treated confidential as to individuals. This book is self-explanatory and you should not miss a single one of these statistics.

You are also supplied with forms for the enrollment of the names of all male citizens of your precinct between the ages of 18 and 45, together with their addresses, and if for any reason they are exempt from militia duty, you shall enter the word "Exempt" and the reason therefor in the proper columns.

Soldier and Sailor List.—House Roll No. 524, Session Laws, 1915, provides that the County Assessors shall, at the time they compile the assessment data, also compile a list of all ex-soldiers and sailors residing in their county. The supply houses will provide the necessary form, by which these returns can be made to the County Clerk by the Precinct Assessors and for your further instructions, a letter from the Secretary of State, to this department relative to this matter is incorporated herein, as follows:

343 Hon. W. H. Osborne, Tax Commissioner, State of Nebraska.

My Dear Mr. Osborne:

Relative to the matter of gathering the information concerning ex-soldiers of all wars, authorized by the provisions of House Roll 524, Session Laws of 1915, permit us to say that this law directs the county assessors to compile a list of all ex-soldiers residing in the county and to show their address; war in which they served; their regiment, company, ship or battery in which they served; state from which they enlisted; and, it is further desired to obtain information as to how many served overseas. So assessors are requested to supply a column for that information and to see that it is carefully filled out. It will materially help this office in compiling this information if assessors and county clerks will arrange to see that precinct assessors carry out the following suggestions:

1. All precinct assessors should be supplied with liberal supply of blanks ruled as below.
2. Be sure to write plainly and spell name correctly.
3. Veterans of the Civil War, Spanish American and World War should be listed on separate blanks.
4. Blanks will be furnished county clerks for reporting names to this office in alphabetical order.

(Suggested Blank.)

Sailors and Soldiers Roster of the —— War.

Name.	Address.	Company.	Battery, vessel, regiment.	From State of—	Months served overseas.
John Doe Sample	Broken Bow Corner G St. & 10th Ave.	D	144th Reg.	California	8 mos.

Very Respectfully Yours, D. M. Amsberry, Secretary of State, By W. L. Gaston, Deputy.

You are also supplied with various forms of special schedul
These are to be used for the purpose as outlined in the hea
344 ings, and in every case where other property is owned a
not specifically mentioned in these forms, a regular form
personal schedule should be made a part of the special schedule.

In the Matter of Domestic Insurance Companies.—Pratically
returns have been made by insurance agents of the amounts of p
miums received on business written by them. You are requested
give special attention to this condition and refer to Section 6357
your revenue law.

Upon the completion of five or ten schedules, immediately m
them to your County Assessor, so that your work may be examin
and an opportunity given you for correction and instructions.

Begin this work as soon after the first of April as is possible, m
ing your returns as early as possible, so that the county assesso
office may be able to complete its tabulation. Your final repo
must all be made not later than the last Monday in May. It is ve
necessary that you get your work done early, so that the county
sessor's office may be able to have its assessment rolls prepared and
the hands of the Board of Equalization when it meets in June.

Assessment of Real Estate.—This year (1921) only land that h
been improved upon since the 1920 assessment is to be valued, b
bear in mind that you are to value any improvements that may ha
been added to or removed from any parcel of land or lot, where su
improvement is of the value of $100.00 or more. Be sure to indic
on the return of such assessment the location of the improvement
Section, Town and Range if on Real Estate and by Lot and Block
on City property and arriving at the value for added improvemen
it would seem to be equitable to exclude from the value of such i
provements the labor costs of such improvements.

In the event that you find partially completed improvements, y
should assess the same according to the amount then invested, m
ing a notation on your return to that effect, so that the completed i
provements may be additionally valued the year following.

Keep an itemized record of the time employed in doing your wo
and the necessary expense in mailing the schedules remembering t
the dates on your schedules should agree with the dates as returned
your expense account.

345 Should there be any matter of assessment that is not p
fectly clear, take the proposition up with the proper auth
ity and get it settled.

Important.—All questions at issue relating to taxation and ass
ment requiring a legal interpretation, should be submitted to
Tax Commission for a written opinion from the Attorney Gener
Office and a complete record kept of each question and opinion in
office of the county assessor for future reference.

We ask your hearty co-operation, not only with the assessor in
adjoining precinct, but also those in the adjoining counties, hav
in mind an equitable assessment not only between precincts in
county, but counties of the state.

The above and foregoing instructions are authorized for the uniform use of assessing authorities, in the State of Nebraska, for the year, 1921. By W. H. Osborne, Jr., Tax Commissioner."

346 GEORGE E. HOLCOMB, called as a witness on behalf of the Complainants, and after being duly sworn by the Chairman, testified as follows:

Examined by Mr. Clark:

Q. In whose employ are you, Mr. Holcomb?
A. I am in the Tax Department of the Union Pacific Railroad Company.
Q. Have you investigated the deeds and records of any of the counties of this state for the purpose of ascertaining the different lands conveyed, the prices thereof, the assessed value for the year A. D. 1920, and also 1921?
A. I have.
Q. What counties?
A. Kimball, Cheyenne, Dawson, Buffalo, Sherman, Howard, Greeley, Valley and Nance. Mr. Scribner and his assistant also covered the counties of Hall, Merrick, Duell, Lincoln, Keith, Garden and Morrill.
Q. Will you explain to the Board whether or not you had read Exhibit "D" before you made this research?
A. I read it last year when it was issued.
Q. Were you acquainted with the plan last year as adopted by this Board?
A. I was.
347 Q. Tell just what you took from each of these deed records in these counties?
A. I made a form of record, printed on a blank card, to show the grantor, the grantee, and the date of the deed, the book and page of the record, consideration, the area, the description, and two columns for the assessed value.
Q. Is this card marked Exhibit "J" the form of record which you have just testified about?
A. Yes sir.

Mr. Clark: Complainants offer in evidence this card marked Exhibit "J", as part of the evidence of this witness.
Which said card, marked Exhibit "J", so offered and received in evidence, is attached hereto as follows:

Exhibit "J" to Holcomb's Testimony.

Form 5391.

C. S. A. 7-21-5M.

Grantor: ——— ———.
Grantee: ——— ———.
Dated Deed: ——— —, ———.

Book —, Page —.
Description: Section —, Township —, Range —.
Acres: —.
Consideration: $—.
Assessed Value, 19—: Land, $—; Imp., $—.
" " , 19—: " , $—.
Remarks: ——.
Average Sales Value: $—. Average Assessed Value: $—.

348 Q. Were the records examined by you accurately transcribed on to these cards under this procedure which you say you took?

A. Yes sir. I started in with the record of July 1st, 1919, and took some as late as July 11th, 1921. I got the warranty deed transfers, conveying land, forty acres or more.

Q. Does the program that you have stated apply to each of the counties in which your railroad operates?

A. Yes.

Q. After you secured these transfers did you make any application of the rule set forth by this Board in Exhibit "D"?

A. I got the assessed value of this land conveyed in 1920 and the assessment in 1921 of the same land, and the computations were made in the office.

Q. Have you all of the cards here with you that you took in these respective counties?

A. No, I have three counties with me.

Mr. Clark: Mr. Chairman, I wish to say to you that if you wish to examine this witness or any of these cards we will leave them here subject to your examination as soon as we complete our work.

Q. Where you found duplicate transfers how did you proceed?

A. I eliminated all except the last dated deed recorded.

349 Mr. Clark: That is all with this witness. If the Board has any cross examination——

Mr. Osborne: I think not.

Witness excused.

350 F. E. McFarland, called as a witness on behalf of the complainants, and after being duly sworn by the Chairman, testified as follows:

Examined by Mr. Clark:

Q. Have you compiled any data, Mr. McFarland, in any of the counties in this state as to transfers beginning with July 1st, 1919 up to April 1st, 1921?

A. I have.

Q. What counties?

A. Sarpy, Johnson, Saline, Hamilton, Harlan, Franklin, Webster, Kearney and Fillmore.

Q. Have you a copy of the card that you used?

A. I have.

Q. You may explain to the Board what you transferred to this card that has been marked Exhibiit "K" from the records of the different counties which you mentioned.

A. The date of the transfer, the parties grantor and grantee, the volume and page recorded, the description, the area, consideration, and the assessment for 1920 and 1921.

Mr. Clark: The card which this witness identifies as the form which he used is now offered in evidence as Exhibit "K."

Which said car, marked Exhibit "K," so offered and received in evidence, is attached hereto as follows:

351 **Exhibit "K" to McFarland's Testimony.**

		Recorded.					Total. assessment.	
Date.	Parties.	Vol.	Page.	Description.	Area.	Cons'd'n.	1920.	1921.
..	..	..	..	..	..	..	..	..

Q. From which records did you ascertain this information?

A. From the deed records.

Q. So far as you did this work state to the Board whether or not you did it accurately and thoroughly?

A. I did.

Q. Did you do any subsequent work with these cards with reference to the plan adopted by this Board in its Exhibit "B"?

A. Yes sir.

Q. What did you do?

A. We added the total and got the per cent of the assessment for 1920; also for 1921; the per cent of reduction, and the sale value per acre for 1920 and 1921.

Q. In doing this did you apply the rules adopted by this
352 Board in 1920 and used by you in 1921, and was that work when finally completed under the supervision of Mr. A. W. Scribner?

A. Yes.

Q. Did you make any compilation in regard to per cent of decrease this year from last year?

A. Yes sir, that was shown on the final exhibit.

Mr. Clark: That is all we have with this witness.

Witness excused.

T. S. Reed, called as a witness on behalf of the complainants, and after being duly sworn by the Chairman, testified as follows:

Examined by Mr. Clark:

Q. Mr. Reed, what position do you hold and with what company?

A. In the Tax Department of the Missouri Pacific.

Q. Have you examined the deed records and ascertained the

transfers, prices, and so forth, in any of the Counties in the State?

A. Yes sir.

Q. What counties did you cover?

A. Otoe, Nemaha and Richardson.

353 Q. Have you the blank form of card that you used in that work?

A. I have.

Q. Is this Exhibit "L" the form of card you used?

A. Yes sir. There is a slight difference as to the arrangement of the assessment dates, I think, between the different cards.

Q. Have you the original cards here with you?

A. Yes sir.

Q. What did you do in getting that information?

A. I went to the Register of Deeds office and examined the deed records.

Q. From those records what did you take?

A. I took the date of the deed, the names of the grantor and grantee, the volume and page recorded, description, area, consideration, total assessment for 1920 and 1921.

Mr. Clark: Complainants offer in evidence the card referred to by the witness, marked Exhibit "L."

Which said card, so offered and received in evidence, marked Exhibit "L," is attached hereto as follows:

354 **Exhibit "L" to Reed's Testimony.**

Date.	Parties.	Recorded. Vol.	Page.	Description.	Area.	Cons'd'n.	Total assessment. 1920.	1921.
..	..	..	..	..	..	..	..	..

Q. Did you do this work thoroughly and accurately in the counties in which you operated and do your cards represent the results of that work?

A. Yes sir.

Mr. Clark: That is all.

Witness excused.

F. F. Ellsworth, called as a witness on behalf of the Complainants, and after being duly sworn by the Chairman, testified as follows:

Examined by Mr. Clark:

355 Q. What is your present position?

A. I am in the Tax Department of the Chicago, Rock Island and Pacific Railway Company.

Q. Did you examine each of the counties of the state in which your road operates to ascertain the transfers, and so forth?

A. Yes sir.

Q. What period?
A. From July 1st, 1919 to March 31st, 1921.
Q. What counties?
A. Cass and Thayer.
Q. Did you supervise the work of any other counties?
A. Yes sir, Gage, Pawnee and Jefferson.
Q. What record did you obtain this data from?
A. Obtained from the Register of Deeds' office. We had the same form of cards that Mr. McFarland submitted, and this data was transferred to a book in that form instead of to the cards.
Q. Tell the Board just what you transferrred from the different deeds?
A. I took the date, the name of the grantor and grantee, and the nature of the instrument, description, area, consideration, and the book and page recorded, and so forth, and the selling price and the year of the sale.
Q. Was the work performed by you and your assistants in this connection thoroughly and accurately done?
A. Yes sir.

Mr. Clark: That is all. If the Board desires to cross-
356 examine they may do so.

Mr. Osborne: I believe there is nothing I wish to ask.

Mr. Clark: The portions of the book referred to by this witness, containing the data testified to, will be available at all times.

Witness excused.

Mr. Clark: Now, gentlemen, I have all of the men here that have examined each of the counties so far as we are introducing them. Do you want me to put each one of them on the stand here? We have had each process used by each road now testified to.

Mr. Osborne: They have already submitted their testimony I take it.

Mr. Clark: But I have a lot more here covering all of the counties.

The Chairman: I do not think you need do that. I think you have sufficient testimony on that.

Mr. Clark: All of the cards of all of the counties will be here subject to test and verification. I will now offer in evidence Exhibit "M," being a statement of the different counties and the
357 names of the road- which assembled this data in those respective counties, so you will always know who to call on for the information.

Which said document, marked Exhibit "M," so offered and received in evidence, is attached hereto as follows:

Exhibit "M."

State Assessment of Railroads, 1921.

Assignment of Counties to Various Railroads to Secure Land-sale Values in Assessment of 1920 and 1921, Land Sales to Commence July 1, A. D. 1919, and Terminate July 31, A. D. 192[illegible]

Counties Assigned to C. & N. W. Railroad Co.

Douglas.	Burt.	Cuming.	Dodge.
Washington.	Wayne.	Dakota.	Thurston.
Cedar.	Dixon.	Madison.	Pierce.
Stanton.	Buter.	Colfax.	Platte.
Polk.	Saunders.	Lancaster.	Seward.
Nuckolls.	York.	Adams.	Clay.
Boone.	Antelope.	Knox.	Holt.
Brown.	Sheridan.	Dawes.	

Counties Assigned to Rock Island Railroad Co.

Cass.
Gage.
Pawnee.
Jefferson.
Thayer.

Counties Assigned to Union Pacific Railroad Co.

Hall.	Sherman.	Lincoln.	Cheyenne.
Merrick.	Valley.	Arthur.	Deuel.
Nance.	Buffalo.	Logan.	Kimball.
Greeley.	Dawson.	McPherson.	Morrill.
Howard.	Keith.	Garden.	

Counties Assigned to C., B. & Q. Railroad Co.

F. E. McFarland.	J. M. Albertson.	Geo. J. Matthews.	Floyd Wright
Fillmore.	Furnas.	Garfield.	Grant.
Saline.	Phelps.	Loup.	Hooker.
Kearney.	Gosper.	Wheeler.	Thomas.
Franklin.	Frontier.	Keya Paha.	Banner.
Harlan.	Red Willow.	Rock.	Sioux.
Webster.	Chase.	Blaine.	Box Butte.
358 Johnson.	Dundy.	Cherry.	Scotts Bluff.
Hamilton.	Hitchcock.	Boyd.	Cherry.
	Perkins.		
	Hayes.		

Counties Assigned to Missouri Pacific Railroad Co.

Nemaha.
Otoe.
Richardson.

A. W. SCRIBNER, called as a witness on behalf of the Complainants, and after being duly sworn by the Chairman, testified as follows:

Examined by Mr. Clark:

Q. What is your business, Mr. Scribner?

A. Tax Commissioner of the Union Pacific Railroad Company.

Q. You have heard the different witnesses testify as to the assembling of data from the different counties in this State, have you?

A. Yes sir.

Q. Did you supervise the work, the final compilation and analysis of all these cards from each of the counties for the purpose of merging it into one exhibit?

A. Yes sir.

Q. And when did you complete that?

A. As far as possible to complete it it was done last evening—some counties were still missing at that time.

Q. Just explain to the Board the process and rule applied to these cards which resulted in the exhibit that we will next offer, being Exhibit "N."

A. First, the information shown on the card was assembled
359 on the sheet for each county, showing the number of acres sold, the consideration as shown by the deeds, the assessed valuation of same lands for 1920 and the assessed valuation of same lands for 1921. Then the per cent which the 1920 assessment bore to the sales or transfer value. The per cent which the 1921 assessment bore to the sales or transfer value. The per cent of reduction from the 1920 assessment. The sales value per acre. The assessed value per acre for the year 1920. The assessed value per acre for the year 1921. Then further, for most of the counties, the sales made in the year 1921,—made and recorded in the year 1921 were separately listed showing the same information as to these sales as was shown for the full body of sales in the first compilation.

Mr. Osborne: What is the period covered by the first compilation?

A. July 1st, 1919 to April 1st, 1921. In a few instances some later sales were taken, after April 1st, but not many of those; nearly all of them stopped April 1st, 1921.

Q. This bundle marked Exhibit "N," does that contain the statement to which you have just testified, as far as you are able to assemble them from the information you had?

A. These contain the information brought in by the representatives of the various railroads, except the Chicago & Northwestern.

360 Mr. Clark: Exhibit "N" is now offered in evidence for the counties of Banner, Blaine, Box Butte, Buffalo, Cass, Chase, Cheyenne, Dawes, Dundy, Fillmore, Franklin, Furnas, Gage, Garden, Deuel, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hitchcock, Hooker, Howard, Kimball, Lincoln, Loup, Merrick, Morrill, Nance, Nemaha, Otoe, Pawnee, Phillips, Red Willow, Phelps, Richardson, Saline, Sarpy, Scotts Bluffs, Sherman, Sioux, Thayer, Thomas, Valley, Webster and Wheeler counties.

Which said document, marked Exhibit "N," so offered and received in evidence, is attached hereto as follows:

Exhibit N to Scribner's Testimony.

Banner County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by The Deeds.

* * * * * * *

Period July 1st, 1919, to April 1st, 1921.

Number of transfers	
Number of acres sold	26,788
Consideration as shown by deeds	749,077
Assessed valuation same lands for 1920	395,9
Assessed valuation same lands for 1921	282,1
Per cent of 1920 assessment to sales value	52.7
Per cent of 1921 assessment to sales value	37.6
Per cent of reduction from 1920 assessment	28.6
Sales value per acre	27.
Assessed value per acre 1920	14.
Assessed value per acre 1921	10.

* * * * * * *

361 Period January 1st, 1921, to April 1st, 1921.

Number of transfers	
Number of acres sold	2,729.
Consideration as shown by deeds	74,370.
Assessed valuation same lands for 1920	46,910.
Assessed valuation same lands for 1921	32,460.
Per cent of 1920 — to sales value	63.0
Per cent of 1921 assessment to sales value	43.6
Per cent of reduction from 1920 assessment	30.8
Sales value per acre	27.
Assessed value per acre 1920	17.
Assessed value per acre 1921	11.

* * * * * * *

362 Blaine County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

* * * * * * *

Period July 1st, 1919, to April 1st, 1921.

Number of transfers	60
Number of acres sold	32,697
Consideration as shown by deeds	$378,420
Assessed valuation same lands for 1920	$158,644
Assessed valuation same lands for 1921	138,020
Per cent of 1920 assessment to sales value	41.9%
Per cent of 1921 assessment to sales value	37.2%
Per cent of reduction from 1920 assessment	13%
Sales value per acre	$11.77
Assessed value per acre 1920	$4.942
Assessed value per acre 1921	$4.30

* * * * * * *

Period January 1st, 1921, to April 1st, 1921.

Number of transfers	5
Number of acres sold	2,560
Consideration as shown by deeds	$30,400
Assessed valuation same lands for 1920	7,580
Assessed valuation same lands for 1921	6,460
Per cent of 1920 assessment to sales value	24.2%
Per cent of 1921 assessment to sales value	21.2%
Per cent of reduction from 1920 assessment	12.4%
Sales value per acre	$11.87
Assessed value per acre 1920	2.68
Assessed value per acre 1921	2.52

* * * * * * *

363 Box Butte County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

* * * * * * *

Period July 1st, 1919, to April 1st, 1921.

Number of transfers	3
Number of acres sold	68
Consideration as shown by deeds	2,83
Assessed valuation same lands for 1920	80
Assessed valuation same lands for 1921	67
Per cent of 1920 assessment to sales value	28.
Per cent of 1921 assessment to sales value	23.
Per cent of reduction from 1920 assessment	15.
Sales value per acre	41.
Assessed value per acre 1920	11.
Assessed value per acre 1921	9.

* * * * * * *

Period January 1st, 1921, to April 1st, 1921.

Number of transfers	
Number of acres sold	4
Consideration as shown by deeds	184
Assessed valuation same lands for 1920	53
Assessed valuation same lands for 1921	45
Per cent of 1920 assessment to sales value	29.
Per cent of 1921 assessment to sales value	24.
Per cent of reduction from 1920 assessment	14.
Sales value per acre	41.
Assessed value per acre 1920	11
Assessed value per acre 1921	10

* * * * * *

364 Buffalo County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1, 1919, to July 1, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

		1921 deeds
Number of Transfers	248	
Number of acres sold	45,113	5
Consideration as shown by deeds	$4,619,580	$464
Assessed valuation same lands 1920	2,458,650	217
Assessed valuation same lands 1921	2,145,225	202
Per cent of 1920 assessment to sales value	53.2%	46.
Per cent of 1921 assessment to sales value	46.4%	43.
Per cent of Reduction from 1920 assessment	12.8%	6.
Sales value per acre	$102.40	$9
Assessed value per acre 1921	47.55	4
" " " " 1920	54.5	

365 Cass County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

* * * * * * *

Period July 1st, 1919, to April 1st, 1921.

Number of Transfers	119
Number of acres sold	12,736.11
Consideration as shown by deeds	$2,823,622.35
Assessed valuation same lands for 1920	1,549,140.00
Assessed valuation same lands for 1921	1,246,695.00
Per cent of 1920 assessment to sales value	54.9%
Per cent of 1921 assessment to sales value	44.15%
Per cent of reduction from 1920 assessment	19.52%
Sales value per acre	$221.72
Assessed value per acre 1920	121.63
Assessed value per acre 1921	97.89

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Period January 1st, 1921, to April 1st, 1921.

Number of Transfers	10
Number of acres sold	1,269.50
Consideration as shown by deeds	$254,470.00
Assessed valuation same lands for 1920	146,265.00
Assessed valuation same lands for 1921	117,490.00
Per cent of 1920 assessment to sales value	57.48%
Per cent of 1921 assessment to sales value	46.17%
Per cent of reduction from 1920 assessment	19.67%
Sales value per acre	$200.45
Assessed value per acre 1920	115.21
Assessed value per acre 1921	92.55

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366 Chase County, Nebraska.

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Period July 1st, 1919, to June 30th, 1920.

Number of Transfers	70
Number of acres sold	21,639
Consideration as shown by deeds	789,250
Assessed valuation same land for 1920	299,200
Assessed valuation same land for 1921	256,434
Per cent of 1920 assessment to sales value	37.90%
Per cent of 1921 assessment to sales value	32.49%
Per cent of reduction from 1920 assessment	14.26%
Sales value per acre	36.47%
Assessed value per acre 1920	13.82
Assessed value per acre 1921	11.85

367 Cheyenne County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During Period July 1, 1919, to July 1, 1921, and the Assessments for Years 1920 and 1921 of the Lands Transferred by Those Deeds

		1921 deeds
Number of Transfers	333	
Number of acres sold	83,020	4
Consideration as shown by deeds	$5,419,657	300
Assessed val'n same lands for 1920	2,271,350	112
Assessed val'n same lands for 1921	Same.	Sa
Per cent of 1920 assessment to sales value	41.9%	37
Per cent of 1921 assessment to sales value	Same.	Sa
Per cent of Reduction from 1920 assessment	None.	No
Sales value per acre	$65.28	$67
Assessed value per acre 1921	27.36	25
1920	45.48	

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368 Dawson County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During Period July 1, 1919, to July 1, 1921, and the Assessments for Years 1920 and 1921 of the Lands Transferred by Those Deeds

		1921 deeds
Number of Transfers	273	
Number of acres sold	58,775	3
Consideration as shown by deeds	$4,749,400	$384
Assessed val'n same lands for 1920	2,673,000	202
Assessed val'n same lands for 1921	2,228,295	173
Per cent of 1920 assessment to sales value	56.1%	52
Per cent of 1921 assessment to sales value	46.9%	45
Per cent of Reduction from 1920 assessment	16.8%	14
Sales value per acre	$80.80	$104
Assessed value per acre 1921	37.90	47
1920	45.48	

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869 Deuel County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1, 1919, to July 1, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those —.

		1921 deeds only.
Number of transfers	140	13
Number of acres sold	33,273	4,650
Consideration as shown by deeds	$2,236,730	$213,950
Assessed val'n same lands for 1920	1,029,680	84,610
Assessed val'n same lands for 1921	875,228	71,919
Per cent of 1920 assessment to sales value	46.4%	39.5%
Per cent of 1921 assessment to sales value	39.2%	33.6%
Per cent of Reduction from 1920 assessment	15.0%	15.0%
Sales value per acre	$67.20	$46.00
Assessed value per acre 1921	26.60	15.45

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870 Dundy County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of Transfers	227
Number of acres sold	87,586
Consideration as shown by deeds	1,965,012
Assessed valuation same lands for 1920	960,625
Assessed valuation same lands for 1921	820,308
Per cent of 1920 assessment to sales value	48.88%
Per cent of 1921 assessment to sales value	41.75%
Per cent of reduction from 1920 assessment	14.38%
Sales value per acre	22.44
Assessed value per acre 1920	10.67
Assessed value per acre 1921	9.37

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Period January 1st, 1921, to April 1st, 1921.

Number of Transfers	
Number of acres sold	10
Consideration as shown by deeds	325.
Assessed valuation same lands for 1920	121.
Assessed valuation same lands for 1921	103.
Per cent of 1920 assessment to sales value	37.4
Per cent of 1921 assessment to sales value	31.9
Per cent of reduction from 1920 assessment	14.6
Sales value per acre	31.
Assessed value per acre 1920	11.
Assessed value per acre 1921	10.

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371 Fillmore County.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds

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Period July 1st, 1919, to April 1st, 1921.

Number of Transfers	
Number of acres sold	22
Consideration as shown by deeds	3,339.
Assessed value same lands 1920	2,173.
Assessed value same lands 1921	1,797.
Per cent of 1920 assessment to sales value	60.
Per cent of 1921 assessment to sales value	52.8
Per cent of reduction from 1920 assessment	23.2
Sales value per acre	153.
Assessed value per acre 1920	97.
Assessed value per acre 1921	81.

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Period January 1st, 1921, to April 1st, 1921.

Number of Transfers	
Number of acres sold	3.
Consideration as shown by deeds	571.
Assessed valuation same lands 1921	295.
Per cent of 1920 assessment to sales value	64.
Per cent of 1921 assessment to sales value	51.7
Per cent of reduction from 1920 assessment	20.2
Sales value per acre	160.
Assessed value per acre 1920	104.
Assessed value per acre 1921	83.

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872 Franklin County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of Transfers	217
Number of acres sold	35,476
Consideration as shown by deeds	2,599,395
Assessed valuation same lands for 1920	1,884,025
Assessed valuation same lands for 1921	1,272,305
Per cent of 1920 assessment to sales value	72.48%
Per cent of 1921 assessment to sales value	48.95%
Per cent of reduction from 1920 assessment	32.47%
Sales value per acre	73.27
Assessed value per acre 1920	53.11
Assessed value per acre 1921	35.86

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Period January 1st, 1921, to April 1st, 1921.

Number of Transfers	30
Number of acres sold	4,680
Consideration as shown by deeds	322,050
Assessed valuation same lands for 1920	154,650
Assessed valuation same lands for 1921	142,130
Per cent of 1920 assessment to sales value	48.02%
Per cent of 1921 assessment to sales value	44.13%
Per cent of reduction from 1920 assessment	8.10%
Sales value per acre	68.81
Assessed value per acre 1920	33.05
Assessed value per acre 1921	30.37

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373 Furnas County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	55
Number of acres sold	95.400
Consideration as shown by deeds	5,502.20
Assessed valuation same lands for 1920	3,167.15
Assessed valuation same lands for 1921	2,722.11
Per cent of 1920 assessment to sales value	57.48
Per cent of 1921 assessment to sales value	49.38
Per cent of reduction from 1920 assessment	14.05
Sales value per acre	57.3
Assessed value per acre 1920	33.2
Assessed value per acre 1921	28.5

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Period January 1st, 1921, to April 1st, 1921.

Number of transfers	3
Number of acres sold	7.72
Consideration as shown by deeds	467.05
Assessed valuation same lands for 1920	249.85
Assessed valuation same lands for 1921	182.38
Per cent of 1920 assessment to sales value	53.49
Per cent of 1921 assessment to sales value	45.3
Per cent of reduction from 1920 assessment	14.5
Sales value per acre	60.4
Sales value per acre (assessed) 1920	32.3
Assessed value per acre 1921	23.5

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374 Gage County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	150
Number of acres sold	18,390
Consideration as shown by deeds	2,966,798.10
Assessed valuation of same lands for 1920	1,601,854
Assessed valuation of same lands for 1921	1,463,692
Per cent of 1920 assessment to sales value	54%
Per cent of 1921 assessment to sales value	49%
Per cent of reduction from 1920 assessment	8.63%
Sales value per acre	161.33
Assessed value per acre 1920	87.10
Assessed value per acre 1921	79.59

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Period January 1st, 1921, to April 1st, 1921.

Number of transfers	38
Number of acres sold	4,997
Consideration as shown by deeds	886,095
Assessed valuation of same lands for 1920	455,855
Assessed valuation of same lands for 1921	414,122
Per cent of 1920 assessment to sales value	51%
Per cent of 1921 assessment to sales value	47%
Per cent of reduction from 1920 assessment	9.16%
Sales value per acre	177.33
Assessed value per acre 1920	91.23
Assessed value per acre 1921	82.87

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375 Garden County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds, Dated During the Period July 1, 1919, to July 1, 1921, and the Assessments for the years 1920 and 1921 of the Lands Transferred by Those Deeds.

		1921 deeds only.
Number of transfers	150	16
Number of acres sold	68,235	4,280
Consideration as shown by deeds	$1,392,833	$170,700
Assessed val'n same lands for 1920	795,209	109,985
Assessed val'n same lands for 1921	686,884	94,317
Per cent of 1920 assessment to sales value	57.9%	64.4%
Per cent of 1921 Assessment to sales value	49.3%	55.2%
Reduction from 1920 assessment	13.6%	14.2%
Sales value per acre	$20.41	$40.00
Assessed value per acre 1921	10.07	20.00

376 Garfield County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds, Dated During the Period July 1, 1919, to July 1, 1921, and the Assessments for the years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	9
Number of acres sold	29,960
Consideration as shown by deeds	$730,810
Assessed valuation same lands for 1920	$416,645
Assessed valuation same lands for 1921	$353,207
Per cent of 1920 assessment to sales value	57%
Per cent of 1921 assessment to sales value	48.3%
Per cent of reduction from 1920 assessment	15.2%
Sales value per acre	24.38
Assessed value per acre 1920	13.90
Assessed value per acre 1921	11.79

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Period January 1st, 1921, to April 1st, 1921.

Number of transfers	6
Number of acres sold	2,640
Consideration as shown by deeds	$47,600
Assessed valuation same lands for 1920	23,375
Assessed valuation same lands for 1921	19,868
Per cent of 1920 assessment to sale value	48.9%
Per cent of 1921 assessment to sale value	41.7%
Per cent of reduction from 1920 assessment	15%
Sales value per acre	18.06
Assessed value per acre 1920	8.85
Assessed value per acre	7.52

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377 Gosper County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds, Dated During the Period July 1st, 1919 to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	199
Number of acres sold	42,001
Consideration as shown by deeds	2,476,976
Assessed valuation same lands for 1920	1,264,209
Assessed valuation same lands for 1921	1,138,296
Per cent of 1920 assessment to sales value	51.03%
Per cent of 1921 assessment to sales value	45.95%
Per cent of reduction from 1920 assessment	11.18%
Sales value per acre	58.97
Assessed value per acre 1920	30.10
Assessed value per acre 1921	27.10

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Period January 1st, 1921, to April 1st, 1921.

	1921 deeds only.
Number of transfers	17
Number of acres sold	3,250
Consideration as shown by deeds	195,345
Assessed valuation same lands in 1920	96,075
Per cent of 1920 assessment to sales value	49.18%
Per cent of 1921 assessment to sales value	44.14%
Per cent of reduction from 1920 assessment	10.26%
Sales value per acre	60.11
Assessed value per acre 1920	29.56
Assessed value per acre 1921	26.53

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378 Grant County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds, Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919 to April 1st, 1921.

Number of transfers	57
Number of acres sold	33,423.96
Consideration as shown by deeds	291,762.55
Assessed valuation same lands for 1920	150,005.00
Assessed valuation same lands for 1921	129,975.00
Per cent of 1920 assessment to sales value	38.29%
Per cent of 1921 assessment to sales value	33.18%
Per cent of reduction from 1920 assessment	13.35%
Sales value per acre	11.72
Assessed value per acre 1920	4.48
Assessed value per acre 1921	3.89

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Period January 1st, 1921 to April 1st, 1921.

Number of transfers	3
Number of acres sold	1,515
Consideration as shown by deeds	13,500
Assessed valuation same lands for 1920	6,225
Assessed valuation same lands for 1921	5,425
Per cent of 1920 assessment to sales value	46.11%
Per cent of 1921 assessment to sales value	40.19%
Per cent of reduction from 1920 assessment	12.85%
Sales value per acre	8.91
Assessed value per acre 1920	3.58

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379 Greeley County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds, Dated During the Period July 1st, 1919, to July 1, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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		1921 deeds only.
Number of transfers	167	11
Number of acres sold	33,230	1,840
Consideration as shown by deeds	$2,923,740	$202,950
Assessed val'n same lands for 1920	1,546,686	98,800
Assessed val'n same lands for 1921	1,324,180	84,720
Per cent of 1920 assessment to sales value	52.9%	48.5%
Per cent of 1921 assessment to sales value	44.9%	41.8%
Per cent of reduction from 1920 assessment	14.3%	14.2%
Sales value per acre	$88.00	$110.30
Assessed value per acre 1921	39.85	45.00

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1, 1919, to July 1, 1921, and the Assessments for the Years During 1920 and 1921 of the Lands Transferred by Those Deeds.

Township.	Range.	Number of transfers.	Number acres sold.	Consideration.	Assessed, 1920.	Val'n, 1921.
9.....	9	4	465	$81,600	$40,275	$34,885
10.....	9	2	247	40,000	16,925	14,800
11.....	9	8	720	128,780	62,600	54,430
12.....	9	7	680	107,270	45,485	40,945
9.....	10	5	714	92,200	52,700	45,640
10.....	10	3	475	75,000	38,725	34,465
11.....	10	12	1,359	177,150	85,225	73,850
12.....	10	3	960	72,600	34,675	30,035
9.....	11	7	1,091	104,350	65,750	57,475
10.....	11	15	1,560	228,700	140,875	122,065
11.....	11	13	1,022	294,682	135,700	116,830
12.....	11	6	880	87,000	42,750	37,070
9.....	12	7	600	88,780	29,425	26,510
10.....	12	8	1,120	199,700	98,375	85,175
11.....	12	6	1,040	119,200	67,900	54,345
12.....	12	9	1,480	128,160	60,575	51,965
		115	15,313	$2,025,172	$1,017,960	$880,485

Number of transfers	115
Number of acres sold	15,313
Consideration as shown by deeds	$2,025,172
Assessed val'n same lands for 1920	1,017,960
Assessed val'n same lands for 1921	880,485
Per cent of 1920 assessment to sales value	50%
Per cent of 1921 assessment to sales value	43.5%
Per cent of reduction from 1920 assessment	13.5%

(Pencil Notation.)

Avrg. Sale Price	
1920	132.25
1921	66.47
	57.5

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381 Hamilton County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by These Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	17
Number of acres sold	1973
Consideration as shown by deeds	3,478.[illegible]
Assessed valuation same lands for 1920	1,788.[illegible]
Assessed valuation same lands for 1921	1,567.[illegible]
Per cent of 1920 assessment to sales value	51.3[illegible]
Per cent of 1921 assessment to sales value	45.0[illegible]
Per cent of reduction from 1920 assessment	12.3[illegible]
Sales value per acre	175.[illegible]
Assessed value per acre 1920	85.[illegible]
Assessed value per acre 1921	79.[illegible]

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Period January 1st, 1921, to April 1st, 1921.

Number of transfers	[illegible]
Number of acres sold	2[illegible]
Consideration as shown by deeds	426.[illegible]
Assessed valuation same lands for 1920	235.[illegible]
Assessed valuation same lands for 1921	199.[illegible]
Per cent of 1920 assessment to sales value	55.1[illegible]
Per cent of 1921 assessment to sales value	47.0[illegible]
Per cent of reduction from 1920 assessment	15.2[illegible]
Sales value per acre	189.[illegible]
Assessed value per acre 1920	104.[illegible]
Assessed value per acre 1921	88.[illegible]

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Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	226
Number of acres sold	39,889
Consideration as shown by deeds	2,917,675
Assessed valuation same lands for 1920	1,516,150
Assessed valuation same lands for 1921	1,324,585
Per cent of 1920 assessment to sales value	51.96%
Per cent of 1921 assessment to sales value	45.40%
Per cent of reduction from 1920 assessment	12.63%
Sales value per acre	73.15
Assessed value per acre 1920	38.01
Assessed value per acre 1921	33.21

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Period January 1st, 1921, to April 1st, 1921.

Number of transfers	28
Number of acres sold	4,990
Consideration as shown by deeds	402,850
Assessed valuation same lands for 1920	159,125
Assessed valuation same lands for 1921	146,860
Per cent of 1920 assessment to sales value	39.50%
Per cent of 1921 assessment to sales value	36.46%
Per cent of reduction from 1920 assessment	7.71%
Sales value per acre	80.73
Assessed value per acre 1920	31.89
Assessed value per acre 1921	29.43

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383 Hitchcock County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	39
Number of acres sold	89,21
Consideration as shown by deeds	3,369,8
Assessed valuation same lands for 1920	1,727,17
Assessed valuation same lands for 1921	1,659,19
Per cent of 1920 assessment to sales value	52.18
Per cent of 1921 assessment to sales value	50.13
Per cent of reduction from 1920 assessment	3.94
Sales value per acre	37.1
Assessed value per acre 1920	19.3
Assessed value per acre 1921	18.6

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Period January 1st, 1921, to April 1st, 1921.

Number of transfers	3
Number of acres sold	7,94
Consideration as shown by deeds	332,6
Assessed valuation same lands for 1920	169,8
Assessed valuation same lands for 1921	151,9
Per cent of 1920 assessment to sales value	51.09
Per cent of 1921 assessment to sales value	45.77
Per cent of reduction from 1920 assessment	10.40
Sales value per acre	42.0
Assessed value per acre 1920	21.4
Assessed value per acre 1921	19.2

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384 Hooker County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919 to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	83
Number of acres sold	44,102.38
Consideration as shown by deeds	397,242.82
Assessed valuation same lands for 1920	249,340.00
Assessed valuation same lands for 1921	212,345.00
Per cent of 1920 assessment to sales value	62.77%
Per cent of 1921 assessment to sales value	53.45%
Per cent of reduction from 1920 assessment	14.84%
Sales value per acre	9.00
Assessed value per acre 1920	5.65
Assessed value per acre 1921	4.81

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Period January 1st, 1921, to April 1st, 1921.

Number of transfers	7
Number of acres sold	2,770.24
Consideration as shown by deeds	32,530.00
Assessed valuation same lands for 1920	14,410.00
Assessed valuation same lands for 1921	13,909.00
Per cent of 1920 assessment to sales value	44.30%
Per cent of 1921 assessment to sales value	42.76%
Per cent of reduction from 1920 asesssment	11.74
Assessed value per acre 1920	5.20
Assessed value per acre 1921	5.02

385 Howard County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1, 1919, to July 1, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

		1921 deeds only
Numbers of transfers	235	8
Number of acres sold	40,712	6,9
Consideration as shown by deeds	$4,381,079	$711,7
Assessed van'n same lands for 1920	2,012,190	316,6
Assessed val'n same lands for 1921	1,701,195	271,3
Per cent of 1920 assessment to sales value	45.9%	44.5
Per cent of 1921 assessment to sales value	38.8%	38.2
Per cent of reduction from 1920 assessment	14.5%	14.3
Sales value per acre	$107.60	$102.7
Assessed value per acre 1921	41.80	39.2

386 Jefferson County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	1
Number of acres sold	20.0
Consideration as shown by deeds	2,553.2
Assessed valuation of same lands for 1920	1,576.0
Assessed valuation of same lands for 1921	1,431,237.3
Per cent of 1920 assessment to sales value	62
Per cent of 1921 assessment to sales value	56
Per cent of reduction from 1920 asesssment	9.19
Sales value per acre	126.3
Assessed value per acre 1920	78.8
Assessed value per acre 1921	71.5

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Period January 1st, 1921, to April 1st, 1921.

Number of transfers	29
Number of acres sold	3,770
Consideration as shown by deeds	491,361
Assessed valuation same lands for 1920	288,825
Assessed valuation same lands for 1921	261,720
Per cent of 1920 assessment to sales value	59%
Per cent of 1921 assessment to sales value	53%
Per cent of reduction from 1920 asesssment	9.38%
Sales value per acre	133.16
Assessed value per acre 1920	78.27
Assessed value per acre 1921	70.93

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Johnson County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	150
Number of acres sold	19,041
Consideration as shown by deeds	3,204,227
Assessed valuation same lands for 1920	2,040,055
Assessed valuation same lands for 1921	1,565,087
Per cent of 1920 assessment to sales value	63.66%
Per cent of 1921 assessment to sales value	48.84%
Per cent of reduction from 1920 asesssment	23.28%
Sales value per acre	168.28
Assessed value per acre 1920	107.14
Assessed value per acre 1921	82.25

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Period January 1st, 1921, to April 1st, 1921.

Number of transfers	8
Number of acres sold	1,080
Consideration as shown by deeds	190,633
Assessed valuation same lands for 1920	120,460
Assessed valuation same lands for 1921	96,745
Per cent of 1920 assessment to sales value	63.19%
Per cent of 1921 assessment to sales value	50.75%
Per cent of reduction from 1920 asesssment	19.69%
Sales value per acre	176.51
Assessed value per acre 1920	111.54
Assessed value per acre 1921	89.58

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388 Kearney County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	19
Number of acres sold	26,7
Consideration as shown by deeds	3,009.8
Assessed valuation same lands for 1920	1,633.4
Assessed valuation same lands for 1921	1,354.1
Per cent of 1920 assessment to sales value	54.3
Per cent of 1921 assessment to sales value	44.9
Per cent of reduction from 1920 asesssment	17.0
Sales value per acre	112.5
Assessed value per acre 1920	61.0
Assessed value per acre 1921	50.6

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Period January 1st, 1921, to April 1st, 1921.

Number of transfers	3
Number of acres sold	4,0
Consideration as shown by deeds	614.2
Assessed valuation same lands for 1920	278.2
Assessed valuation same lands for 1921	232.1
Per cent of 1920 assessment to sales value	45.3
Per cent of 1921 assessment to sales value	37.8
Per cent of reduction from 1920 asesssment	16.9
Sales value per acre	150.5
Assessed value per acre 1920	68.2
Assessed value per acre 1921	56.8

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889 Keith County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to July 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Number of transfers	168
Number of acres sold	60,243
Consideration as shown by deeds	$2,812,352
Assessed val'n same lands for 1920	1,297,139
Assessed val'n same lands for 1921	1,001,927
Per cent of 1920 assessment to sales value	46.2%
Per cent of 1921 assessment to sales value	35.6%
Per cent of reduction from 1920 assessment	22.8%
Sales value per acre	$44.68
Assessed value per acre	16.63

Same Recapitulation from Deeds Dated in 1921.

Number of transfers	19
Number of acres sold	5,222
Consideration as shown by deeds	$472,520
Assessed val'n same lands for 1920	171,350
Assessed val'n same lands for 1921	134,415
Per cent of reduction from 1920 assessment	21.6%
Per cent of 1920 assessment to sales value	36.3%
Per cent of 1921 assessment to sales value	28.5%
Sales value per acre	$90.70
Assessed value per acre 1921	25.74

890 Kimball County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1, 1919, to July 1, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

		1921 deeds only.
Number of transfers	308	48
Number of acres sold	100,170	12,200
Consideration as shown by deeds	$4,415,782	$562,530
Assessed val'n same lands for 1920	2,202,250	278,500
Per cent of reduction from 1920 assessment	same.	same.
Per cent of 1920 assessment to sales value	None.	None.
Per cent of 1921 assessment to sales value	49.9%	49.5%
Sales value per acre	same.	same.
Assessed value per acre 1921	$44.08	$46.10
	16.02	10.95

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1, 1919, to July 1, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Township.	Range.	Number of transfers.	Number acres sold.	Consideration.	Assessed, 1920.	Val'n, 1921.
9	26	18	5,397	$254,250	$75,800	$63,500
10	26	13	5,006	110,794	34,525	32,675
11	26	7	2,245	76,910	19,750	19,800
12	26	9	1,916	66,839	16,000	15,800
13	26	3	575	18,400	6,175	5,520
14	26	6	3,040	69,900	24,200	22,725
15	26	6	3,921	84,892	28,200	19,951
16	26	8	2,810	77,643	20,300	15,990
9	27	11	2,800	97,350	33,175	29,480
10	27	16	6,305	169,120	46,300	40,460
11	27	4	1,920	45,800	11,500	10,240
12	27	5	3,204	146,270	36,625	36,155
13	27	1	640	51,200	16,200	16,200
14	27	7	5,600	86,640	31,025	26,715
15	27	5	1,436	14,900	5,875	4,740
16	27	7	2,640	150,750	44,900	36,380
9	28	2	1,350	33,750	17,125	13,245
10	28	8	3,000	68,240	24,430	20,975
11	28	7	4,000	80,940	27,285	23,045
12	28	8	1,845	87,200	21,900	19,730
13	28	6	1,562	72,750	23,175	18,175
14	28	3	2,080	32,620	8,300	6,630
15	28	3	2,240	33,240	10,425	8,160

9	29	5	1,340	37,200	16,100	15,775
10	29	3	2,240	40,600	16,080	16,115
11	29	5	2,726	53,800	18,865	19,090
12	29	7	2,320	92,465	33,775	29,180
13	29	4	480	53,600	9,500	7,840
14	29	2	800	11,200	4,000	3,525
15	29	8	4,400	65,440	24,850	21,510
16	29	14	5,933	174,410	58,050	46,018
9	30	6	1,440	45,600	18,000	15,600
10	30	4	720	10,900	4,100	4,240
11	30	1	320	12,800	4,575	3,660
12	30	9	2,000	80,200	25,400	23,800
13	30	2	560	59,680	15,830	15,845
14	30	8	2,141	94,500	29,925	23,660
15	30	14	7,201	123,180	53,275	37,131
16	30	4	1,600	12,080	9,000	6,400
9	31	4	2,240	47,994	15,000	8,100
10	31	5	1,120	26,400	7,100	5,240
11	31	7	2,840	35,960	13,475	12,660
12	31	6	1,560	42,616	8,650	6,920
13	31	6	960	47,200	13,925	10,700
14	31	9	2,207	233,665	65,925	54,685

15	31	3	3,060	68,880	16,550	14,475
16	31	1	160	4,000	675	605
9	32	6	2,400	38,980	13,350	9,069
10	32	9	2,360	47,000	18,050	16,223
11	32	7	3,840	67,075	25,250	21,055

Recapitulation of Abstracts of Warranty Deeds.—Continued.

Township.	Range.	Number of transfers.	Number acres sold.	Consideration.	Assessed, 1920.	Val'n, 1921.
12.....	32	4	2,110	22,493	9,300	7,585
13.....	32	6	1,160	89,500	27,775	21,807
14.....	32	8	992	114,305	40,050	37,175
15.....	32	2	1,120	8,000	4,475	4,250
16.....	32	5	2,200	23,925	8,550	6,679
9.....	33	3	1,040	22,750	5,075	3,450
10.....	33	11	3,680	67,213	22,850	20,750
11.....	33	3	480	6,100	2,725	2,315
12.....	33	9	5,223	77,665	33,875	29,233
13.....	33	9	1,600	107,220	38,875	34,210
14.....	33	9	1,407	127,180	34,325	31,705
15.....	33	5	2,831	69,740	20,575	20,375
16.....	33	6	6,910	77,822	21,460	21,460
9.....	34	9	2,080	103,200	28,650	23,525
10.....	34	4	640	35,200	16,125	7,495
12.....	34	7	2,720	124,900	41,750	32,470
13.....	34	14	3,520	272,280	96,975	63,600
14.....	34	1	40	2,400	1,000	800
15.....	34	3	2,560	36,700	12,550	9,140
		446	171,453	$5,173,416	$1,633,650	$1,369,069

Number of transfers	446
" " acres conveyed	171,453
Consideration as shown by deeds	$5,173,416
Assessed val'n same lands for year 1920	1,633,650
" " " " " " 1921	1,369,069
Per cent of 1920 assessment to sales value	31.6%
" " " 1921 " " " "	26.5%
" " " reduction from 1920 assessment	16.2%

(Pencil notation.)

Sales val. per acre	$30.18
Assessed " " "	7.99

393 Loup County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April, 1st, 1921, and the Assessment for the Years 1920 and 1921 of the Lands Transferred by those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of Transfers	78
Number of acres sold	31,653
Consideration as shown by deeds	$473,095
Assessed valuation same lands for 1920	231,099
Assessed valuation same lands for 1921	198,057
Per cent of 1920 assessment to sales value	49%
Per cent of 1921 assessment to sales value	4.8%
Per cent of reduction from 1920 assessment	14.5%
Sales value per acre	$14.94
Assessed value per acre 1920	$7.30
Assessed value per acre for 1921	$6.25

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Period January 1st, 1921, to April 1st, 1921.

Number of Transfers	5
Number acres sold	920
Consideration as shown by deeds	$29,600
Assessed valuation same lands for 1920	$12,970
Assessed valuation same lands for 1921	$11,055
Per cent of reduction from 1920 assessment	15%
Per cent of 1920 assessment to sales value	43.8%
Per cent of 1921 assessment to sales value	37.3%
Sales value per acre	$32.17
Assessed value per acre 1920	14.10
Assessed value per acre 1921	12.01

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Recapitulation of Abstracts of Warranty Deeds, Dated During the Period July 1st, 1919 to July 1, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Township.	Range.	Number of transfers.	No. acres sold.	Consideration.	Assessed 1920.	Valuation 1921.
15	3	1	160	32,000	15,225	$12,040
16	3	4	1,180	175,210	92,135	75,175
14	4	1	80	12,000	6,295	5,055
15	4	13	2,560	373,540	172,265	139,820
13	5	2	215	32,000	19,360	16,160
14	5	13	2,160	371,407	177,900	143,765
15	5	18	2,264	331,823	157,100	126,760
13	6	4	625	115,075	67,510	53,935
14	6	19	2,150	296,471	162,685	130,955
15	6	11	1,680	211,600	89,835	71,640
12	7	1	80	11,321	6,750	5,924
13	7	12	1,920	259,975	152,975	126,455
14	7	13	2,723	398,900	192,280	161,875
15	7	7	1,604	131,436	57,445	45,635
11	8	3	489	54,900	27,485	23,430
12	8	2	240	31,200	19,605	17,155
13	8	9	1,420	192,545	87,690	82,800
14	8	14	2,000	216,400	106,410	88,585
15	8	13	2,050	248,480	121,940	92,565
16	8	2	400	42,400	21,830	17,680
		162	26,000	$3,538,683	$1,754,720	$1,437,409

Recapitulation of Abstracts of Warranty Deeds.—Continued.

Number of Transfers	162	19
Number of acres sold	26,000	3,120
Consideration as shown by deeds	$3,538,683	386,455
Assessed val'n same lands for year 1920	1,754,720	189,955
Assessed val'n same lands for year 1921	1,437,409	153,510
Per cent of 1920 assessment to sales value	49.6%	49.2%
Per cent of 1921 assessment to sales value	40.6%	39.7%
Per cent of reduction from 1920 assessment	18.1%	19.2%
Sales value per acre	136.10	123.80
Assessed value per acre	55.29	50.00

395 Morrill County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919 to July 1st, 1921, and the Assessments for the Years 1920 and 1921 of the lands Transferred by Those Deeds.

		1921 deeds only.
Number of Transfers	277	14
Number of acres sold	72,332	4,381
Consideration as shown by Deeds	$3,103,136	$264,534
Assessed Val'n same lands for 1920.	1,371,276	115,200
Assessed Val'n same lands for 1921.	1,158,977	85,210
Per cent of 1920 assessment to sales value	44.2%	44.0%
Per cent of 1921 assessment to sales value	37.4%	32.2%
Per cent of reduction from 1920 assessment	15.5%	26.0%
Sales value per acre	$42.90	$60.40
Assessed value per acre 1921	16.02	10.95

396 Nance County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds, Dated During the Period July 1, 1919, to July 1, 1921 and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

		1921 deeds only.
Number of Transfers	171	20
Number of acres sold	34,213	3,940
Consideration as shown by deeds	$4,898,327	$543,821
Assessed Val'n same lands for 1920.	2,550,110	298,255
Assessed value same lands for 1921.	1,922,217	224,275
Per cent of 1920 assessment to sales value	52.6%	55.0%
Per cent of 1921 assessment to sales value	39.2%	41.3%
Per cent of reduction from 1920 assessment	24.6%	24.8%
Sales value per acre	$143.20	$138.00
Assessed value per acre 1921	56.48	56.90

397 Nemaha County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds, Filed During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Number of transfers	17
Number of acres sold	15.89
Consideration as shown by deeds	$3,238.55
Assessed value same land for 1920	1,808.18
Assessed value same land for 1921	1,439.50
Per cent of 1920 assessment to sales value	55.83
Per cent of 1921 assessment to sales value	44.45
Per cent of reduction 1921 assessment below 1920 assessment	20.39
Average sales price per acre	203.8
Average assessed value 1920 per acre	103.8
Average assessed value per acre 1921	90.6

398 Nemaha County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds, Dated During the Period January 1st, 1921, to April 1st, 1921, and the assessment of the Year 1921 of the Lands Transferred by Those Deeds.

Number of transfers	2
Number of acres sold	2.13
Consideration as shown by deeds	444.00
Assessed value same lands for 1920	247.30
Assessed value same lands for 1921	207.30
Per cent of 1920 assessment to sales value	55.67
Per cent of 1921 assessment to sales value	46.69
Per cent of reduction 1921 assessment below 1920 assessment	16.20
Average sales value per acre	209.5
Average assessed value 1920 per acre	$116.1
Average assessed value 1921 per acre	97.3

399 Otoe County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds, Filed for Period During July 1st, 1919, to April 1st, 1921, and the Assessment for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Number of transfers	266
Number of acres sold	32,450
Consideration as shown by deeds	$6,459,148
Assessed value same lands for 1920	3,766,340
Assessed value same lands for 1921	3,278,823
Per cent of 1920 assessment to sales value	58.31%
Per cent of 1921 assessment to sales value	50.75%
Per cent of reduction 1921 assessment below 1921 assessment	12.50%
Average sales price per acre	199.05
Average assessed value 1920 per acre	116.07
Average assessed value 1921 per acre	101.05

400 Otoe County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds, Dated During the Period January 1st, 1921, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Number of transfers	38
Number of Acres Sold	4,791
Consideration shown by Deeds	$977,426
Assessed value same lands for 1920	581,835
Assessed value same lands for 1921	510,060
Per cent of 1920 assessment to sales value	59.52%
Per cent of 1921 assessment to sales value	52.18%
Per cent of reduction 1921 assessment below 1920 assessment	12.33%
Average sales value per acre	204.02
Average assessed value 1921 per acre	106.45
Average assessed value 1920 per acre	121.44

401 Pawnee County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds, Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	11
Number of acres sold	15,80
Consideration as shown by deeds	2,033,422.3
Assessed valuation of same land for 1920	1,211,509.0
Assessed valuation of same land for 1921	1,048,362.0
Per cent of 1920 assessment to sales value	59
Per cent of 1921 assessment to sales value	51
Per cent of reduction from 1920 assessment	13.47
Sales value per acre	127.9
Assessed value per acre 1920	76.7
Assessed value per acre 1921	65.9

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Period January 1st, 1921, to April 1st, 1921.

Number of transfers	1
Number of acres sold	1,9
Consideration as shown by deeds	248.0
Assessed valuation of same land for 1920	152.0
Assessed valuation of same land for 1921	138.0
Per cent of 1920 assessment to sales value	61
Per cent of 1921 assessment to sales value	56
Per cent of reduction from 1920 assessment	129.4
Assessed value per acre 1920	79.3
Assessed value per acre 1921	69.9

402 Phelps County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919 to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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Period July 1st, 1919 to April 1st, 1921.

Number of transfers	275
Number of acres sold	50,097
Consideration as shown by deeds	4,455,466
Assessed valuation same lands for 1920	2,724,879
Assessed valuation same lands for 1921	2,355,044
Per cent of 1920 assessment to sales value	61.16%
Per cent of 1921 assessment to sales value	52.86%
Per cent of reduction from 1920 assessment	13.57%
Sales value per acre	88.94
Assessed value per acre 1920	54.39
Assessed value per acre 1921	47.01

Period January 1st, 1921, to April 1st, 1921.

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Number of transfers	27
Number of acres sold	7,810
Consideration as shown by deeds	695,598
Assessed valuation same lands for 1920	426,707
Assessed valuation same lands for 1921	362,650
Per cent of 1920 assessment to sales value	61.34%
Per cent of 1921 assessment to sales value	52.13%
Per cent of reduction from 1920 assessment	15.02%
Sales value per acre	89.06
Assessed value per acre 1920	54.63
Assessed value per acre 1921	46.43

403 Red Willow County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919 to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Said Deeds.

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Period July 1st, 1919, to April 1st, 1921.

Number of transfers	3
Number of acres sold	115
Consideration as shown by deeds	5,639
Assessed valuation same lands for 1920	3,183
Assessed valuation same lands for 1921	2,892
Per cent of 1920 assessment to sales value	56.4
Per cent of 1921 assessment to sales value	51.2
Per cent of reduction from 1920 assessment	9.1
Sales value per acre	48
Assessed value per acre 1920	27
Assessed value per acre 1921	25

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Period January 1st, 1921, to April 1st, 1921.

Number of transfers	1
Number of acres sold	140
Consideration as shown by deeds	642
Assessed valuation same lands for 1920	339
Assessed valuation same lands for 1921	309
Per cent of 1920 assessment to sales value	52.7
Per cent of 1921 assessment to sales value	48.1
Per cent of reduction from 1920 assessment	8.7
Sales value per acre	45
Assessed value per acre 1920	24
Assessed value per acre 1921	21

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04 Richardson County, Nebraska.

ecapitulation of Abstracts of Warranty Deeds Filed for Record During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

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umber of transfers	273
umber of acres sold	26,019
onsideration as shown by deeds	$5,282,830
sessed value same lands for 1920	2,814,265
sessed value same lands for 1921	2,386,227
r cent of 1920 assessment to sales value	53.27%
r cent of 1921 assessment to sales value	45.17%
r cent of reduction 1921 assessment below 1920 assessment	15.21%
erage sales value per acre	203.04
erage assessed value 1920 per acre	108.16
erage assessed value 1921 per acre	91.71

5 Richardson County, Nebraska.

ecapitulation of Abstracts of Warranty Deeds Dated During the Period January 1st, 1919, to April 1st, 1921, and the Assessment for the Year 1921 of the Lands Transferred by Those Deeds.

mber of transfers	21
mber of acres sold	2,342
nsideration as shown by deeds	$446,292
essed value same lands for 1920	278,725
essed value same lands for 1921	221,980
r cent of 1920 assessment to sales value	62.45%
r cent of 1921 assessment to sales value	49.74%
r cent of reduction 1921 assessment below 1920 ssessment	20%
erage sales value per acre	190.56
erage assessed value 1921 per acre	94.78
erage sales value per acre	119.00

406 Saline County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Period July 1st, 1919, to April 1st, 1921.

Number of transfers	22
Number of acres sold	25,57
Consideration as shown by deeds	4,072,15
Assessed valuation same lands for 1920	2,585,48
Assessed valuation same lands for 1921	2,270,65
Per cent of 1920 assessment to sales value	63.49
Per cent of 1921 assessment to sales value	55.76
Per cent of reduction from 1920 assessment	12.18
Sales value per acre	160.4
Assessed value per acre 1920	101.9
Assessed value per acre 1921	89.4

Period January 1st, 1921, to April 1st, 1921.

Number of transfers	3
Number of acres sold	3[illegible]
Consideration as shown by deeds	506,7
Assessed valuation same lands for 1920	279,9
Assessed valuation same lands for 1921	239,9
Per cent of 1920 assessment to sales value	55.1
Per cent of 1921 assessment to sales value	47.3
Per cent of reduction from 1920 assessment	14.0
Sales value per acre	166.[illegible]
Assessed value per acre 1920	91.5
Assessed value per acre 1921	79.[illegible]

407 Sarpy County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Period July 1st, 1919, to April 1st, 1921.

Number of transfers	5
Number of acres sold	1,135,5
Consideration as shown by deeds	568,2
Assessed valuation same lands for 1920	478,5
Assessed valuation same lands for 1921	50.0
Per cent of 1920 assessment to sales value	42.1
Per cent of 1921 assessment to sales value	15.8
Per cent of reduction from 1920 assessment	226.
Sales value per acre	11[illegible]
Assessed value per acre 1920	9[illegible]
Assessed value per acre 1921	

Period January 1st, 1921, to April 1st, 1921.

Number of transfers	4
Number of acres sold	320
Consideration as shown by deeds	78,800
Assessed valuation same lands for 1920	37,450
Assessed valuation same lands for 1921	32,290
Per cent of 1920 assessment to sales value	47.53%
Per cent of 1921 assessment to sales value	40.98%
Per cent of reduction from 1920 assessment	13.78%
Sales value per acre	246.25
Assessed value per acre 1920	117.03
Assessed value per acre 1921	100.91

408 Scotts Bluff County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period of July 1st, 1919, to April 1st 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Number of transfers	169
Number of acres sold	17,796
Consideration as shown by deeds	1,951,258
Assessed valuation same lands for 1920	783,605
Assessed valuation same lands for 1921	672,433
Per cent of 1920 assessment to sales value	40.16%
Per cent of 1921 assessment to sales value	34.46%
Per cent of reduction from 1920 assessment	14.19%
Sales value per acre	109.65
Assessed value per acre 1920	44.03
Assessed value per acre 1921	37.78

409 Sherman County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to July 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

		1921 deeds only.
Number of Transfers	210	31
Number of Acres Sold	43,050	5,660
Consideration as shown by Deeds	$3,535,870	$467,925
Assessed Val'n same lands for 1920	1,653,225	210,860
Assessed Val'n same lands for 1921	1,437,442	185,300
Per cent of 1920 assessment to sales value	46.8%	45.6%
Per cent of 1921 assessment to sales value	40.6%	40.0%
Per cent of reduction from 1920 assessment	13.1%	12.1%
Sales value per acre	$82.36	$82.67
Assessed value per acre 1921	33.38	32.74

410 Sioux County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to July 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Period July 1st, 1919, to April 1st, 1921.

Number of Transfers	228
Number of Acres sold	112,732
Consideration as shown by deeds	2,312,674
Assessed valuation same lands for 1920	1,401,015
Assessed valuation same lands for 1921	1,117,822
Per cent of 1920 assessment to sales value	60.58%
Per cent of 1921 assessment to sales value	48.33%
Per cent of reduction from 1920 assessment	20.21%
Sales value per acre	20.51
Assessed value per acre 1920	12.42
Assessed value per acre 1921	9.92

Period January 1st, 1920, to April 1st, 1921.

Number of Transfers	11
Number of acres sold	1,364
Consideration as shown by deeds	83,025
Assessed valuation same lands for 1920	60,040
Assessed valuation same lands for 1921	50,680
Per cent of 1920 assessment to sales value	72.19%
Per cent of 1921 assessment to sales value	61.04%
Per cent of reduction from 1920 assessment	15.59%
Sales value per acre	65.60
Assessed value per acre 1920	47.50
Assessed value per acre 1921	40.00

411 Thayer County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to July 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Period July 1st, 1919, to April 1st, 1921.

Number of Transfers	96
Number of acres sold	38,347
Consideration as shown by deeds	4,739,14
Assessed valuation same lands for 1920	2,617,25
Assessed valuation same lands for 1921	2,347,61
Per cent of 1920 assessment to sales value	55.29%
Per cent of 1921 assessment to sales value	49.54%
Per cent of reduction from 1920 assessment	10.3%
Sales value per acre	123.5
Assessed value per acre 1920	68.2
Assessed value per acre 1921	61.2

Period January 1st, 1921, to April 1st, 1921.

Number of Transfers	31
Number of acres sold	3,860
Consideration as shown by deeds	526,700
Assessed valuation same lands for 1920	272,150
Assessed valuation same lands for 1921	244,850
Per cent of 1920 assessment to sales value	51.67%
Per cent of 1921 assessment to sales value	46.49%
Per cent of reduction from 1920 assessment	10.03%
Sales value per acre	136.45
Assessed value per acre 1920	70.51
Assessed value per acre 1921	63.43

412 Thomas County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to July 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Period July 1st, 1919, to April 1st, 1921.

Number of Transfers	92
Number of acres sold	55,958.45
Consideration as shown by deeds	547,306.50
Assessed valuation same lands for 1920	306,844.00
Assessed valuation same lands for 1921	240,350.50
Per cent of 1920 assessment to sales value	56.06%
Per cent of 1921 assessment to sales value	43.92%
Per cent of reduction from 1920 assessment	21.67%
Sales value per acre	9.18
Assessed value per acre 1920	5.48
Assessed value per acre 1921	4.29

Period January 1st, 1921, to April 1st, 1921.

Number of transfers	6
Number of acres sold	3,680
Consideration as shown by deeds	43,700
Assessed valuation same lands for 1920	20,085
Assessed valuation same lands for 1921	14,697.50
Per cent of 1920 assessment to sales value	45.96%
Per cent of 1921 assessment to sales value	33.61%
Per cent of reduction from 1920 assessment	26.82%
Sales value per acre	12.04
Assessed value per acre 1920	5.45
Assessed value per acre 1921	3.99

413 Valley County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period, July 1st, 1919, to July 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

		1921 Deeds only.
Number of Transfers	218	18
Number of acres sold	43,142	2,73[illegible]
Consideration as shown by Deeds	$4,048,710	$259,40[illegible]
Assessed val'n same lands for 1920	2,007,310	125,20[illegible]
Assessed Val'n same lands for 1921	1,640,715	102,99[illegible]
Per cent of 1920 assessment to sales value	49.6%	48.3%
Per cent of 1921 assessment to sales value	40.5%	39.8%
Per cent of Reduction from 1920 assessment	18.0%	17.7%
Sales value per acre	$93.85	$95.[illegible]
Assessed value per acre 1921	38.00	37.7[illegible]

414 Webster County, Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Period July 1st, 1919, to April 1st, 1921.

Number of Transfers	17[illegible]
Number of acres sold	27,07[illegible]
Consideration as shown by deeds	2,302,6[illegible]
Assessed valuation same lands for 1920	1,379,8[illegible]
Assessed valuation same lands for 1921	1,194,07[illegible]
Per cent of 1920 assessment to sales value	59.9[illegible]
Per cent of 1921 assessment to sales value	51.8[illegible]
Per cent of reduction from 1920 assessment	13.4[illegible]
Sales value per acre	85.[illegible]
Assessed value per acre 1920	50.[illegible]
Assessed value per acre 1921	44.[illegible]

Period January 1st, 1921, to April 1st, 1921.

Number of Transfers	[illegible]
Number of acres sold	3,6[illegible]
Consideration as shown by deeds	360,0[illegible]
Assessed valuation same lands for 1920	178,8[illegible]
Per cent of 1920 assessment to sales value	56.6[illegible]
Per cent of 1921 assessment to sales value	49.5[illegible]
Per cent of reduction from 1920 assessment	12.5[illegible]
Sales value per acre	100.[illegible]
Assessed value per acre 1920	56.[illegible]
Assessed value per acre 1921	49.[illegible]

415 Wheeler County Nebraska.

Recapitulation of Abstracts of Warranty Deeds Dated During the Period July 1st, 1919, to April 1st, 1921, and the Assessments for the Years 1920 and 1921 of the Lands Transferred by Those Deeds.

Period July 1st, 1919, to April 1st, 1921.

Number of Transfers	76
Number of acres sold	30,712
Consideration as shown by deeds	$960,620
Assessed valuation same land for 1920	$441,465
Assessed valuation same land for 1921	$391,982
Per cent of 1920 assessment to sales value	46%
Per cent of 1921 assessment to sales value	40.8%
Per cent of reduction from 1920 assessment	11.2%
Sales value per acre	$31.27
Assessed value per acre 1920	$14.37
Assessed value per acre 1921	$12.76

Period January 1st, 1921, to April 1st, 1921.

Number of Transfers	3
Number of acres sold	1,880
Consideration as shown by deeds	$47,800
Assessed valuation same land for 1920	$20,750
Assessed valuation same land for 1921	$17,140
Per cent of 1920 assessment to sales value	40.3%
Per cent of 1921 assessment to sales value	35.9%
Per cent of reduction from 1920 assessment	17.4%
Sales value per acre	$25.42
Assessed value per acre 1920	$11.03
Assessed value per acre 1921	$9.12

416 Q. In doing this work did you adopt the rule and plan which was used and adopted by this Board in 1920?

A. Yes sir.

Q. After you had worked out these cards as stated, did you reduce that result to a sheet of paper?

A. Yes sir.

Q. That sheet of paper has been marked Exhibit "O," and which you may now examine and state if the results thereon given are the accurate computations and analyses made under this rule and accurately transferred to this exhibit.

A. The computations were not all made by me personally but were made under my direction. The larger portion of the computations of the average value adjusted—the information shown in the column headed "Average Value Adjusted" was figured by Mr. Reed of the Missouri Pacific.

Q. From where did you take the data set forth in the second column?

A. This is headed "State Board Average Transfer Price 7-1-1918 to 7-1-1919"—that information was taken from the sheets made up and issued by Mr. Osborne.

Q. What exhibit of Mr. Osborne's was that?

417 A. Exhibit B.

Q. Which column?

A. Second column.

Q. And the fourth column?

A. And the Fourth column is headed "State Board Average Value Adjusted"—I wish to correct that—the second Column on Exhibit "O" was taken from the first column on Exhibit "B."

Q. From whence did you get the fourth column of Exhibit "O?"

A. That was taken from the second column of Exhibit "B."

Q. And the fifth Column of Exhibit "O" from whence did you obtain it?

A. That was taken from the second column of Exhibit "C" as shown.

Q. The work which was performed by other men under your supervision, did you check it sufficiently to advise this board as to whether or not that work was accurately performed?

A. Yes sir.

Q. And that applied to all of the cards which have been referred to here?

A. Yes sir.

Q. You may now state whether or not this Exhibit "O,"

418 with its different columns and the headings thereof, is a true and accurate result of the investigation which you have been explained?

A. It is.

Mr. Clark: We will offer in evidence Exhibit "O."

Which said document, marked Exhibit "O," so offered and received in evidence is attached hereto as follows:

(Here follows Exhibit O to Scribner's Testimony, marked side folio page 419.)

420 Mr. Clark: I will say to the Board that there are a number of counties missing, many of which we will complete as soon as we can, and let you have the results there also.

Q. Do you know, Mr. Scribner, the per cent of real estate value of the railroads in this state as compared to their total value? State it fully to this Commission if you have it and how you obtain it.

A. I have taken a record or made a computation of the percentage of real estate value of the Railroads as compared with the total value of the railroads taken from the eighth annual report of

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Nebraska State Railway Commission, issued in 1915, on page—this is a report made to the Governor—on page 516 of which is a statement showing the physical valuation of steam railroads as of July 1st, 1913, covering entire railroad property in Nebraska. In the second column of that page showing present value, rather, Department's present value, the total number the heading "B" in parenthesis, is shown a total value of $287,000,278.00; that includes some large items of property which are assessed locally and not assessed by the State Board, such as headquarters buildings, shops, shop machinery, storehouses,
421 elevators, etc., and I made as close an estimate as I could of that property figuring it would amount to about $7,000,000.00. The Union Pacific local assessments amount to over $5,000,000.00. Of course, this would give a little over $7,000,000.00 for all of the railroads of local assessments. So I deducted from the $287,000,278.00 this sum of local assessments, leaving a total value of the property assessable by the State Board of $280,000,000.00. Now from this last sum I have taken the items as shown by the Nebraska State Railway Commission as follows: Railway and Station grounds, $43,907,890.00. Other real estate, $3,249,675.00; Fencing right-of-way $1,186,912.00; Station buildings and fixtures, $43,907,890.00; Other real estate $3,249,675.00; Fencing Right of Way $1,186,912.00; Station buildings and fixtures, $4,973,136.00; Engine houses and turntables—now, that is included in the statement with the shops in an item amounting to $5,349,679.00—the shops are assessed locally and not by the Board, and Mr. Pollard and I figured it out and estimated that the engine house and turntables in that would amount to, in round numbers, $2,500,000.00.

422 Q. Did you leave that in or take it out?

A. I took out the locally assessed, the $287,000,000.00 and left in the engine houses and turntables at $2,500,000.00, which were assessable by this Board. Water stations, $1,741,184.00. Fuel stations, $727,221.00. Miscellaneous structures, $1,742,007.00. Giving a total of lands and improvements of the kind which I have read of $60,028,025.00.

Q. State whether or not that represents property assessable by this Board?

A. Yes sir.

Q. Does it include any not assessable by this board?

A. No sir, not as nearly as I could estimate it.

Q. Procede with your statement.

A. The total of this real estate and improvements thereon is $60,028,025.00, which represents 21.44 per cent of the $280,000,000.00 total valuation found after deducting locally assessed property.

Q. Now, that was based on the valuation made as of 1913?

A. Yes sir.

Q. How well are you acquainted with the railroad systems of this state?

A. Pretty well. I have had something to do with them
423 for about thirty years.

Q. In what capacity?

A. Tax Commissioner.

Q. Had occasion to know and work with the other tax Commissioners of the other roads in the state?

A. Yes sir.

Q. And have you been traveling over the roads of this state?

A. Yes sir.

Q. And for the purpose of observing their conditions and fixing values?

A. Yes sir.

Q. Do you say to this Board as to whether or not the percentages represented in that physical valuation of 1913 still apply to the present conditions of these complainants in this state?

A. In my judgment *in* fairly represents the present proportion.

Mr. Clark: I think that is all. Do you wish to cross examine this witness.

Cross-examination.

By Mr. Osborne:

Q. Mr. Scribner, the figures you just read were figures sub-
421 mitted by the railway companies to the railway commission?

A. No, these are the figures found by the Railway Commission.

Q. But based on figures submitted to them for the purpose of what?

A. The railroad companies made the report under this law which required the Nebraska Railway Commission to make a physical valuation of the railroads, whatever purpose it might be used for.

Q. That was in 1913?

A. Yes, they commenced in 1909, I think, to get it out.

By Mr. Dressler:

Q. Lots of that data was a result of investigation by the Commission's own representatives?

A. Yes. They did not adopt the railroads' figures; they adopted their own figures. I have seen the report turned in to the Commission by the Union Pacific and these are not the same figures at all they were revised as the Commission finally decided.

By the Chairman:

Q. Were they increased or decreased?

A. They are less than the railroad reports. They were decreased.

Mr. Clark: Is there anything else?

Mr. Osborne: I don't think so.

425 Mr. Clark: It is admitted that if put upon the witness stand that each of the field men would testify that the p

used in assembling the information from the deed records in the various counties were those which have been testified to by the respective witnesses on the stand.

Mr. Clark: For the purpose of giving the basis of the work done by Mr. Scribner I offer in evidence page 516 of the eighth annual report of the Nebraska State Railway Commission of date 1915, page 516 thereof being headed "Physical Valuation of Steam Railroads July 1st, 1913," and marked Exhibit "P."

Which said writing, marked Exhibit "P" so offered and received in evidence, is as follows:

Exhibit P to Scribner's Testimony.

Eighth Annual Report.

Physical Valuation of Steam Railroads, July 1, 191 3,*Covering Entire Railroad Property in Nebraska.*

Miles of Roadway, 6,147.75. Miles of Track, 8,198.48.

Subject.	Reproduction cost new.	Department's valuation.	
		Present value.	Present value, new formula.
1. R-of-W and Station Grounds:			
(*a*) Mkt. Value with acq	$27,668,411	$27,668,411	
(*b*) Inc. Acq. and Sev	43,907,890	43,907,890	
2. Real Estate	3,249,675	3,249,675	
3. Grading	42,462,847	42,462,847	
4. Tunnels	118,953	103,489	
5. Bridges, Trestles and Cul.	21,569,104	15,169,933	
6. Ties	24,054,643	15,100,939	
7. Rails	29,001,052	21,402,177	
8. Frogs & Switches	1,041,624	662,133	
9. Track Fast. & Other Mat'l.	6,689,466	4,901,849	
10. Ballast	19,432,148	16,563,919	
11. Track Laying & Surfacing	7,800,206	7,800,206	$5,598,528
12. Road way Tools	269,442	165,972	
13. Fencing Right of Way	1,849,358	1,186,912	
14. Crossings and signs	2,400,873	1,818,194	

15.	Int'g. & Other Sig. Apr.	1,262,432	935,872	
16.	Telegraph and Tel. line	1,657,990	959,281	
17.	Station Bldgs. & Fix	6,864,386	4,973,136	
18.	Gen. Office Bldg. and fix	1,829,042	1,679,780	
19.	Shops, Eng. Houses and Tbl	6,833,449	5,349,679	
20.	Shop Mach. & tools	2,381,169	1,696,369	
21.	Water Stations	2,369,503	1,741,184	
22.	Fuel Stations	1,037,424	727,221	
23.	Grain Elevators	198,644	158,596	
24.	Storage Warehouses	4,027	3,887	
28.	Electric Trans. Lines	961	913	
30.	Miscellaneous Structures	2,539,048	1,742,007	
31.	Adaptation and Solidifie'n	7,740,143	7,740,143	
32.	Engineering and Superintendence	7,050,613	7,050,613	6,157,646
33.	Steam Locomotives	12,762,387	8,413,730	
35.	Passenger cars	5,989,304	3,816,518	
36.	Freight Cars	20,908,534	14,337,264	
	37. Work and Misc. Equip't	2,679,571	1,957,817	
427	38. Rent & Rep's of Equipment	668,225	668,225	527,978
	39. Inspect'n Pur. of Equip	423,398	423,398	285.253
40.	Transportation of men and material—miscellaneous	2,576,104	2,576,104	2,028,616
41.	Stores and Sup. for Nebr	6,668,227	6,668,227	

Physical Valuation of Steam Railroads.—Continued.

Subject.	Reproduction cost new.	Department's valuation. Present value.	Department's valuation. Present value, new formula.
42. General Expenditures contingencies:			
(*a*) Mkt. Val. Land only	36,700,807	36,700,807	29,767,174
(*b*) Inc. Acq. and Sev. Right of way	38,884,179	38,884,179	31,953,840
Grand Totals:			
(*a*) Mkt. Val. land only	$318,753,190	$268,577,427	$257,723,269
(*b*) Inc. Acq. and Sev. Right-of-way	337,176,041	287,000,278	276,149,414
(*a*) Per mile of Roadway	51,849	43,687	41,922
(*b*) Per mile of roadway	54,845	46,684	44,919
(*a*) Per Track mile	38,880	32,760	31,436
(*b*) Per Track mile	41,127	35,007	33,684

Does not include supplemental reports, covering abandoned lines.

428 Mr. Clark: We will offer in evidence the final order and judgment of this Board of Equalization for the taxes for this year, A. D. 1921.

Mr. Osborne: Why not offer a final and complete return of the abstract of assessment of the State as Equalized by the State Board for the year 1921.

Mr. Clark: That will be admitted in the record.

Which said document so offered and received in evidence is attached hereto and returned herewith in the words and figures following:

NOTE.—The document referred to is not attached to the record at time this copy made.

FURTHER NOTE.—Document above referred to is attached at page 368, this record.

429 Mr. Clark: There has been offered in evidence the skeleton map of this State with the exterior boundary lines of each county showing the data assembled by this Commission as explained by the legend thereon, which is to be completed and further data added as soon as prepared.

Mr. Clark: The Complainants rest.

Statement by Mr. Magaw.

The evidence that has been introduced here, gentlemen, is, of course, documentary, and there is no dispute about it, and it is simply proved matters that are already within the knowledge of the Secretary of this Board and of the members of the Board.

The purpose in introducing them is to get them into the record so you will have them officially before you in the consideration of the question that is presented. You are also all familiar with the fact that the last Legislature passed a law requiring the assessment of property this year, whereas had it not been for that law the property would not have been assessed. This necessitated a hurried assessment and we feel that the law was passed by the Legislature largely because it recognized there had been a decline in the value of property and it felt that the assessment made in 1920 did not fairly reflect the values of this year on account of that decline.

The position of the railroads is that they have been assessed on the 1920 basis and have not been given the benefit of any decline as has been given to other property, as shown by the evidence, and while, as stated by the Secretary, the Board has not equalized the assessments, I think that when the equalization is completed it will show that there has been a reduction in real estate in the State of Nebraska, of about fifteen per cent, under the 1920 assessment, and I think it is also common knowledge that the assessors of the various counties, in making the assessment this year, generally in most if not all instances, made their assessments by reducing the 1920 assessmeent fifteen per cent.

The railroads of this state, of course, wish to pay their full sh
of taxes. These are burdens that fall upon the citizens and f
upon all of us heavily and are hard to bear particularly at th
time, but the railroad does not feel that it should bear a grea
burden than its just proportion.

431 The evidence that has been introduced I think shows, a
I do not think there will be any disposition to dispute t
fact that farm land generally throughout this state is not asse
at 100 per cent of its value. I do not believe anybody conte
that it is. I think it is estimated that it is assessed at from 6
70 per cent of its actual value. The Commission last year, or t
Board,—I suppose the work was actually done by the Secret
Mr. Osborne—at great labor, compiled a statement showing
transfer values from July, 1918, I think, to July, 1919; it
showed the assessed valuation on the tracts of land that had b
actually transferred and compared the assessed value of these tra
of land that had been transferred and compared the assessed va
tion of these tracts with the transfer price as shown by the reco
and it was shown that the assessed value of these tracts of land
had been transferred was, in round numbers, about fifty per c
of the transfer value. Now, those are based upon the Board's
figures. Now, the railroads have brought that same data down
July, 1920, to the present date, and the percentage of the ass
valuation to the transfer values shows that it is only—
432 the land is only assessed at about fifty per cent of its tra
price. And under the formula used by the Commis
which is the formula adopted in Wisconsin and some other st
I am told, it shows that any method that is used that the farm l
of the state, the real estate of this state, is assessed at from 65 t
per cent of its actual value.

The Board, as shown by its return, has assessed all the rail
property at 100 per cent of its value, and this, therefore, of co
results in a discrimination against the railroad property. As
can readily see, if two men owned a farm apiece and their fa
were assessed, one of them at 50 per cent of its actual value
the other at 100 per cent of its actual value one man would
paying twice as much taxes as the other man, which is, of co
contrary to the principle of taxation and to the constitution of
state.

The evidence shows that about twenty per cent of the prop
of the railroad is the same kind of property that your farm prop
is; it consists of right-of-way and the buildings thereon and p
erty of the same class as farm property, yet there has been no
duction made from the 1920 assessment on this class of prope
and we feel that under this showing that we are be
433 more than our just burden of taxes and that we should
granted the same percentage of reduction that has b
granted to other property, which, as I stated before, I unders
the evidence will show amounts to about a fifteen per cent reduc
under the 1920 assessment.

Mr. Clark: Now, how soon will you know.

Exhibit R.

Statement No. 23.

Grand Assessment Roll for 1904.

ounties:

	Lands.					Lots.					
	Improved.		Unimproved.			Improved.			Unimproved.		
	Value.	Av.	Acres.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
337	122,216,789	$6.67	132,424,790	17,900,748	$1.36	216,523	$35752566	$165.12	$263,904	$6045018	$22.91

Mr. Osborne: I think we will be ready to submit any testimony, we care to submit anything, on Monday next.
Mr. Clark: Now, we will make up a statement of fact to submit this matter in the form of a short brief of the facts.
Mr. Osborne: Is that all you have, Mr. Clark?
Mr. Clark: Yes, will you now adjourn until Monday?
Mr. Osborne: We will adjourn this hearing until Monday.

Whereupon the further hearing of this matter was adjourned until nday morning, July 25th, 1921.

Monday, July 25th, 1921—two o'clock p. m.

Further hearing of this matter resumed pursuant to adjournment.

Mr. Osborne: Mr. Amsberry, will act as Chairman.
The Chairman: What is there before us at this time, Gentlemen?
Mr. Clark: Mr. Chairman, I would like to withdraw the rest on alf of each of the carriers and introduce a little more evidence.
The Chairman: There is no objection to that, and you may pro-d.
Mr. Clark: Complainants offer in evidence from page 172 of the nnial report of the Auditor of Public accounts of the State of braska, A. D. 1904, the headings on page 170 and the totals on e 172, as shown by this paper marked Exhibit "R."

Which said document, marked Exhibit "R," so offered and re-ed in evidence is attached hereto as follows:

(Here follows Exhibit R, marked side folio page 435.)

Mr. Clark: We offer in evidence from the Biennial Report of the Auditor of Public Accounts of the State of Nebraska A. D. 1919 and 1920 the heading on page 256 and the totals on 257 for A. D. 1920, as shown on the document marked Ex-"S."

Which said document, marked Exhibit "S" so offered and re-ed in evidence, is attached hereto as follows:

Exhibit S.

tem No. 2.

lso offer in evidence from the Biennial Report of the Auditor ublic Accounts, Nebraska, 1919-1920, heading on page 256, and s on page 257 as follows:

"Statement No. 108 (Continued).

Counties.	Total lands and improvements. Acres.	Value.	Per cent of inc. or dec. by State board.	Total lands and improvements as equalized by State Board of Equalization
.....	47,410,648	446,328,959	.....	428,894,0

437 Mr. Cark: We offer in evidence from page 201 of Auditor's Report A. D. 1904 the heading which commences Statement No. 26 continued being the next three lines, reading as follows: "Showing the number of miles, the assessed valuation per mile and the total assessed valuation of railroads in the State of Nebraska, as determined by the State Board of Equalization May 1 A. D. 1904 for the purpose of showing that the assessed valuation was one-fifth of the actual value."

Mr. Osborne: That is the only purpose of it?

Mr. Clark: Yes, that is the only purpose of it. If you admit the fact that is all we care for.

Mr. Osborne: We will admit that, but we do not admit the accuracy of the figures in the report.

Mr. Clark: I am not putting in the figures.

Mr. Osborne: That is all right then.

Mr. Clark: We offer in evidence Statement No. 12-B, page [illegible] and terminating on page 294 of the Report of the Auditor
438 of Public Accounts A. D. 1919 and 1920, the column headed "Assessed total valuation representing the one-fifth of the actual value as prescribed by Section 6300 revised Statutes of Nebraska, 1913.

Mr. Osborne: Is that for the purpose of verifying the totals?

Mr. Clark: No, not for that purpose but for the purpose of showing that the figures there are one-fifth of the actual value.

Mr. Osborne: If that is the purpose I do not object. It is understood that the figures represented here are not admitted to be correct. I haven't had a chance to verify them.

Mr. Clark: Yes, subject to verification by Mr. Osborne, and if you find any erro-s there it may be corrected.

Mr. Osborne: That is all right.

Which said portions of said report so offered and received in evidence are in the words and figures following:

Statement No. 12ll, Showing the Number of Miles, the Assessed Valuation per Mile, and the Total Assessed Valuation of Railroads in the State of Nebraska as Determined by the State Board of Equalization and Assessment for 1920.

Chicago, Burlington & Quincy Ry.:	Mileage.	Assessed valuation.	Assessed total valuation.
Ashland to Schuyler	49.71	$6,699.00	$331,515.00
Ashland to Sioux City	103.07	7,749.00	798,689.00
Aurora to Lester	64.06	5,589.00	258,030.00
Aurora to Palmer	35.10	6,129.00	215,127.00
Crete to Wymore	42.78	8,829.00	377,704.00
Colorado State Line to Alliance	86.69	5,589.00	484,509.00
Culbertson Jct. to Imperial	49.17	4,509.00	221,703.00
De Witt to Holdrege	133.46	7,533.00	1,027,952.00
Edgar to Superior	26.54	4,509.00	119,668.00
Fairmont to Chester	45.16	5,589.00	252,399.00
Fort Crook Line	4.47	4,509.00	20,154.00
Greeley Center to Ericson	18.32	4,509.00	82,604.00
Holdrege to Colorado State Line	161.43	7,749.00	1,250,920.00
Kenesaw to Kearney	24.19	5,589.00	135,197.00
Lincoln to Cobb Junction	7.23	5,589.00	40,408.00
Lincoln to Columbus	69.67	7,425.00	517,299.00
McCool Jct. to K. C. & O. Jct.	43.74	5,589.00	244,462.00
Nebraska City to Lincoln	57.61	7,749.00	446,419.00
Nebraska City to Salem	46.77	5,589.00	261,397.00
Nemaha City to Salem	64.78	5,589.00	362,054.00
Northport to Wyoming St. Line	54.19	5,589.00	302,867.00

Report of Auditor of Public Accounts.—Continued.

	Mileage.	Assessed valuation.	Assessed total valuation.
Chicago, Burlington & Quincy Ry. (continued):			
Odell Jct. to Kansas St. Line	6.04	5,589.00	33,757.00
Oreapolis to Ashland via Omaha	47.71	17,469.00	271,709.00
Palmer to Burwell	69.03	6,129.00	423,084.00
Palmer to Sargent	73.29	6,129.00	449,194.00
Plattsmouth to Colo. St. Line	364.25	17,469.00	6,362,558.00
Republican City to Kas. St. Line	8.50	4,509.00	38,325.00
Rulo to Oxford Jct. via Red Cloud	235.66	11,529.00	2,716,923.00
Rulo to Kansas State Line	8.19	5,589.00	45,773.00
South Sioux City to O'Neill	128.14	5,589.00	716,174.00
Stromsburg to Alama	149.13	5,589.00	835,487.00
Table Rock to So. Dak. St. Line	508.89	11,205.00	5,702,112.00
Chalco to Yutan	12.05	1,000.00	12,050.00
Total			$26,291,385.00
440 Union Pacific Ry.:			
Main Line	456.39	24,618.00	11,235,409.00
Summit to Lane	20.50	23,538.00	482,529.00
O. & R. V. Branches	428.195	10,254.00	4,390,711.00
Kearney Branch	102.66	7,425.00	762,261.00
Central City Branch	22.03	7,165.00	157,845.00
North Platte Branch	153.95	5,718.00	880,286.00
Hastings to Northwestern	27.35	6,750.00	184,613.00
Total	1,211.075	.....	18,093,644.

Chicago & N. W. Lines	1,062.55	7,595.00	8,070,822.00
Chicago, St. P., M. & O.	303.005	9,072.00	2,748,861.00
Chicago, Rock Island & Pacific Ry.:			
Maine Line	123.46	10,983.00	1,355,961.00
St. Joseph Line	69.79	8,499.00	593,145.—
Nelson Line	51.50	6,663.00	343,144.00
Total	244.75	.....	2,292,250.00
Mo. Pacific Ry.:			
Auburn Jct. to Webster Str.	81.04	8,127.00	658,612.00
Kans. St. Line to Gilmore Jct.	92.20	8,823.00	819,012.00
Lincoln to Union	45.20	8,127.00	367,340.00
Talmage to Crete	58.18	6,723.00	391,144.00
Kans. State Line to Prosser	71.26	4,563.00	325,159.00
Total	347.88	.....	2,561,267.00
Kansas City & Northwestern Ry.:			
Kans. State Line to Virginia	20.65	5,103.00	105,175.00
St. Joseph & Grand Island Ry.:			
Kans. State Line to Grand Island	112.63	7,053.00	794,734.00
Mason City to Ft. Dodge	.....	.....	108,000.00

Report of Auditor of Public Accounts.—Continued.

	Mileage.	Assessed valuation.	Assessed total valuation.
Omaha & Lincoln Ry. & Light Co.	6.63	3,000.00	19,890.00
Omaha Bridge & Terminal Ry.	1.31	.....	129,600.00
Omaha, Lincoln & Beatrice Ry.	6.12	3,000.00	18,360.00
Omaha & Southern Interurban Ry.	6.00	3,000.00	18,000.00
Illinois Central	.....	.....	10,800.00
Wabash Railway	.....	.....	10,800.00
Chicago, Milwaukee & St. Paul	.....	.....	21,600.00
Atchison, Topeka & Santa Fe	.....	.....	3,000.00
Total			340,050.00
Grant total Value of Railroads			61,299,188.00

EXHIBIT "T"

442

NEBRASKA CROP REPORTER

UNITED STATES
DEPARTMENT OF AGRICULTURE
BUREAU OF CROP ESTIMATES
IN COOPERATION WITH
STATE OF NEBRASKA
DEPARTMENT OF AGRICULTURE
BUREAU OF MARKETS AND MARKETING
LINCOLN

MARCH 1, 1921

AGRICULTURAL STATISTICS FOR THE STATE OF NEBRASKA AND THE UNITED STATES

UNITED STATES BUREAU OF CROP ESTIMATES
A. E. ANDERSON, AGRICULTURAL STATISTICIAN

STATE OF NEBRASKA, DEPARTMENT OF AGRICULTURE
LEO STUHR, SECRETARY OF AGRICULTURE

NEBRASKA MARCH 1, 1921 CROP REPORT

Farm reserves of grain are larger than usual according to estimates compiled by the bureau of crop estimates and Nebraska department of agriculture. The supply of corn on hand is estimated to be 160,983,000 bushels, wheat 19,958,000 bushels and oats 48,163,000 bushels. Large crops last year, shortage of cars at the time wheat was bringing highest prices and later the heavy drop in prices are largely responsible for the large supplies on hand. Land values have dropped slightly and cash rents are lower.

The reports indicate that 63% of the corn crop remains on farms or a reserve supply of 160,983,000 bushels as compared to 73,674,000 bushels last year. A year ago 40% of the crop was reported on farms and the ten year average is about the same. Last year's crop was much larger than usual and less live stock has been fed. Prices have been so low that farmers have refused to sell. Some have stated that the cost of husking, shelling and hauling to market has taken half of the price offered at the local elevator. About 95% of last year's corn crop was of merchantable quality as compared to the ten year average of 83%. It is estimated that 43% of the crop will be shipped out as surplus corn as compared to the ten year average of 29%.

Stocks of wheat are estimated at 19,958,000 bushels as compared to 11,528,000 bushels a year ago. This is approximately 33% of the crop against 19% on hand a year ago, and the ten year average of 23%. About 72% of the crop is shipped out of the county where grown, the balance being milled locally, used for seed or fed as screenings.

The balance of the oat crop on farms totals 48,163,000 bushels as compared to 29,384,000 bushels a year ago. This represents 58% of last year's crop on hand against 42% of the crop a year ago and the ten year average of 42%. About 32% of the corn is available for surplus shipments. Counties south of the Platte river have a larger surplus than counties north of the river as was the situation a year ago.

Estimates of stocks of barley are placed at 3,564,000 bushels or 48% of the crop as compared to 26% the ten year average. Approximately 35% of the crop will be shipped out of the county where grown as compared to the ten year average of 31%.

There has been a slight decrease in farm land values, which is rather exceptional. The average value of plow lands now and a year ago are as follows: poor plow lands $85 and $85 per acre, good plow lands $150 and $150, all plow lands $125 and $125. The average price per acre of all improved farm lands is $125 against $135 a year ago. All unimproved farm lands average $95 per acre as compared to $110 a year ago. In connection with the above figures it must be remembered that 26% of the farm land is within the sand hill area of the state where values are very low when compared to the remainder of the state.

Estimates of grain stocks for the United States are as follows: wheat, 207,591,000 bushels as compared to 165,539,000 bushels a year ago; corn, 572,397,000 bushels against 1,092,095,000 bushels held on farms last year; oats, 689,566,000 bushels and 422,815,000 bushels a year ago; barley, 61,836,000 bushels as compared to 38,040,000 bushels last year.

MARCH 1 GRAIN STOCKS

(Given in thousands of bushels, 000 omitted.)

Nebraska

	1921	1920	1919	1918	1917
Corn	160,983	73,674	34,464	139,707	73,112
Wheat	19,958	11,528	5,358	2,753	15,081
Oats	48,163	29,384	19,666	63,494	35,145
Barley	3,564	1,840	962	1,919	924

United States

	1921	1920	1919	1918	1917
Corn	1,572,397	1,092,000	855,269	1,253,290	782,303
Wheat	207,591	165,543	128,703	107,745	100,680
Oats	689,566	422,815	590,251	599,208	394,211
Barley	69,836	38,010	81,746	44,419	33,244

SIX YEARS OF NEBRASKA FARM LAND VALUES

(Average acre values for entire state.)

	1921	1920	1919	1918	1917	1916
Poor plow lands	$ 85	$ 85	$ 67	$ 60	$ 51	$ 49
Good plow lands	150	150	115	100	90	85
All plow lands	125	125	95	80	74	72
All farm land with improvements	125	135	105	92	80	75
All farm land without improvements	95	110	90	82	67	62

AVERAGE PRICES PAID NEBRASKA PRODUCERS

1919—	Wheat *	Corn *	Oats	Prairie Hay †	Alfalfa Hay †	Potatoes *	Butter *	Eggs *	Hogs †	Beef Cattle †
Jan.	$2.01	$1.26	$ .62	$19.00	$23.40	$1.26	$ .46	$ .41	$16.10	$11.90
Feb.	2.02	1.26	.59	20.00	22.70	1.35	.41	.31	16.10	12.40
Mar.	2.05	1.42	.62	20.70	24.00	1.13	.46	.32	17.00	12.30
Apr.	2.24	1.53	.66	23.50	26.70	1.18	.51	.34	18.80	13.00
May	2.18	1.59	.66	26.30	28.50	1.27	.49	.36	19.10	12.80
June	2.12	1.62	.65	22.60	22.90	1.70	.45	.31	18.90	11.90
July	1.98	1.81	.70	15.60	17.60	2.19	.47	.32	20.40	12.00
Aug.	1.95	1.69	.65	16.40	19.40	2.34	.49	.33	20.00	12.00
Sept.	1.97	1.38	.62	15.30	18.53	1.97	.51	.37	14.90	10.10
Oct.	1.99	1.23	.61	17.00	20.60	1.85	.58	.50	13.40	9.60
Nov.	2.02	1.22	.65	17.60	21.30	1.90	....	....	13.20	9.70
Dec.	2.24	1.25	.70	18.20	22.00	1.75	.63	.60	12.20	9.40
1920—										
Jan.	2.28	1.29	.73	18.20	21.60	2.41	.56	.51	13.20	10.10
Feb.	2.14	1.22	.75	17.10	20.80	2.75	.50	.41	13.20	9.40
Mar.	2.26	1.37	.81	15.10	18.80	3.00	.54	.35	13.20	10.10
Apr.	2.40	1.49	.89	14.30	18.40	4.82	.52	.36	12.80	10.30
May	2.46	1.64	.95	15.50	18.50	5.12	.53	.33	12.80	10.20
June	2.45	1.62	.96	14.20	17.80	5.49	.50	.32	13.00	11.20
July	2.07	1.24	.63	14.00	16.00	3.43	.51	.33	13.40	10.70
Aug.	2.13	1.30	.61	13.30	15.70	2.06	.50	.37	13.40	9.80
Sept.	1.97	.83	.51	11.70	15.62	1.60	.52	.42	13.90	9.80
Oct.	1.71	.61	.44	11.00	13.00	.98	.56	.48	13.30	8.30
Nov.	1.31	.41	.37	10.60	12.00	1.20	....	....	11.20	7.70
Dec.	1.39	.40	.39	9.10	11.50	1.19	.42	.53	8.00	6.70
1921—										
Jan.	1.38	.37	.33	8.75	11.65	1.07	.36	.44	8.00	6.70

†Prices at middle of month. *Prices at close of month.

NEBRASKA GRAIN STOCKS BY DISTRICTS

	Remaining on Farms				Shipped and to be Shipp			
	Corn	Wheat	Oats	Barley	Corn	Wheat	Oats	Barl
District	%	%	%	%	%	%	%	%
Northwest	53	27	73	62	5	66	23	11
North	51	31	58	39	20	67	28	2
Northeast	55	19	48	36	39	68	43	4
West	56	28	57	62	33	76	31	5
Central	56	29	53	54	36	65	34	4
East	67	33	61	44	50	71	35	2
Southwest	68	35	61	59	37	73	25	3
South	64	37	60	42	47	73	29	3
Southeast	62	39	66	46	53	78	31	4

AVERAGE LAND VALUES PER ACRE BY DISTRICTS

District	Poor Plow Lands	Good Plow Lands	All Plow Lands	Improved Farm Lands	Unir prov Far Lan
Northwest	$ 21	$ 55	$ 49	$ 40	$ 2
North	28	80	53	61	4
Northeast	122	196	163	198	16
West	33	75	55	66	5
Central	58	121	92	100	8
East	134	210	190	215	17
Southwest	22	69	49	60	4
South	49	96	77	87	6
Southeast	105	172	146	160	13

CASH RENTS BY DISTRICTS

	Average Per Farm			Average Per Acre	
District	Paid for Typical Farm	Value of such Farm	No. Acres in such Farm	Paid for Plow Fields	Val of su Fie
Northwest	$ 540	$15,725	450	$ 3.16	$ 3
North	871	13,666	260	4.00	6
Northeast	1,192	28,866	164	9.00	18
West	820	13,530	285	5.23	5
Central	790	17,060	173	5.50	10
East	1,255	31,209	154	10.40	21
Southwest	761	11,300	400	3.75	5
South	855	15,600	199	5.50	7
Southeast	1,036	26,004	160	9.80	15

441 Mr. Clark: Complainants now offer in evidence the Nebraska Crop Reporter dated March 1, 1921, calling specific attention to the next to the last paragraph on page 2 and the average land values per acre by districts on page 4; also on page 3 the table under the heading of "Sixty years of Nebraska Farm Land Values" (Average acre values for entire state)", and document being marked Exhibit "T".

Which said document, marked Exhibit "T", so offered and received in evidence is attached hereto as follows:

(Here follows Exhibit "T", marked page 442.)

443 Mr. Clark: Complainants will now recall Mr. Scribner.

A. W. SCRIBNER, a witness heretofore called and duly sworn on behalf of complainants, was recalled and testified as follows:

Examined by Mr. Clark:

Q. Mr. Scribner, have you made any study to determine from any of the public records of this state the assessed land values?
A. Yes sir.
Q. For what year?
A. For the year 1920.
Q. What was the basis you used? From what did you get that information?
A. The report of the State Auditor, Biennial Report years 1919 and 1920.
Q. And what particular tables or pages did you refer to?
A. Pages 256 and 257.
Q. What was the process you used in making this deduction?
A. This report shows the total lands and improvements assessed in the State of Nebraska, number of acres to be 47,410,648; the total assessed value of the same $428,894,670.00. Understanding
444 that that total valuation represented the one-fifth value I multiplied it by five to get the so-called assessed actual valuation which gives a total of $2,144,473,350.00 actual valuation; dividing that by the number of acres gives an average assessed valuation or so-called actual valuation being one-fifth of the assessed valuation, of $45.23 per acre.
Q. Did you make the same deduction for the year 1921 from the figures assembled by the railroads and which have been introduced here in evidence?
A. Yes sir. I was unable to——
Q. What was the result? I mean from the figures assembled by the railroads and which have been introduced here in evidence?
A. Yes sir. I was unable to make this computation for the entire state. Statistics for about seventeen or eighteen counties were miss-

ing, but as to the counties where we had computed the average value adjusted from sales July 1st, 1919, to April 1st, 1921, I multiplied the number of acres in each county by the average value adjusted, so found in each county, and then made a footing of the total acres and total valuation for all except the missing counties, being
445 74 counties for which I had the figures, and it showed the total acreage of 33,330,970. The total average value adjusted, found as explained, equaled $3,440,653,141.00, showing an actual valuation per acre on that basis for the 74 counties of $103.22.

Q. Now, the counties which are missing——

Mr. Osborne: Just a moment—I have a question there.

By Mr. Osborne:

Q. Mr. Scribner, you say that shows what?
A. $103.22.

By Mr. Osborne:

Q. Actual value?
A. Actual value per acre.

Mr. Clark, resuming:

Q. That is the transfer or sale value?
A. The sale value.

Mr. Osborne: I had the wrong idea.

A. On what we show the average value adjusted according to each county.

Q. This is not the assessed value but the sale value?
A. The sale value.

Q. Mr. Scribner, looking at Exhibit "O", I will ask you if the counties which are missing in the calculation which you
446 have just made are those shown as missing in Exhibit "O"?
A. Yes sir. I can give you the names of the counties.

Q. Read them?
A. Box Butte, Boyd, Chase, Cherry, Custer, Frontier, Hayes, Keya Paha, Logan, McPherson, Morrill, Perkins, Polk and Rock.

Mr. Clark: The complainants now offer in evidence a table prepared by Mr. Osborne with the following heading: "The following is the reductions and increases as outlined by the State Board for the several counties as pertains to real estate. This does not include town lots and city property", same to be marked Exhibit "U". The Complainants now rest.

Which said document, marked Exhibit "U", so offered and received in evidence, is attached hereto as follows:

Exhibit "U" to Scribner's Testimony.

The following is a tentative outline of the reduction and increases as outlined by the State Board for the several counties as pertains to real estate. This does not include town lots and City property.

County.	Equalized value, 1920.	Assessors' return, 1921.	Proposed % increase or decrease.	Proposed value per acre, 1921.
Cass	132.59	107.04	inc. 4%	$111.32
Nemaha	119.07	95.38	0	95.38
Otoe	124.40	114.77	Dec. 8%	105.58
Richardson	106.34	92.11	0	92.11
Sarpy (report not received)	.....	.....	..	.....
Douglas	167.36	144.05	0	144.05
Burt	142.14	124.03	0	124.03
Cuming	143.01	123.60	0	123.60
Dodge	140.32	119.36	0	119.36
Washington	148.00	133.89	dec. 6%	125.86
Wayne	133.78	94.48	Inc. 12%	105.82
Dakota	112.92	96.86	0	96.86
Thurston	134.81	98.02	0	98.08
Cedar	114.75	97.00	0	97.00
Dixon	99.00	78.19	Inc. 5%	82.10
Madison	102.54	86.72	0	86.72
Pierce	90.42	76.78	0	76.78
Stanton	115.90	98.16	0	98.16
Butler	126.34	88.30	Inc. 10%	97.13
Colfax	132.45	117.70	Dec. 5%	111.82
Platte	116.98	99.20	0	99.20
Polk	113.61	96.99	0	96.99
Saunders	128.59	109.75	)	109.75

Exhibit "U" to Scribner's Testimony.—Continued.

County.	Equalized value, 1920.	Assessors' return, 1921.	Proposed % increase or decrease.	Proposed value per acre, 1921.
Lancaster	115.67	100.40	0	100.40
Saline	109.81	96.30	Dec. 3%	93.41
Seward	110.66	87.78	Inc. 5%	92.17
Gage	91.35	83.24	Dec. 4%	79.91
Johnson	95.60	85.97	Dec. 5%	81.67
Pawnee	80.96	69.21	0	69.21
Jefferson	81.33	69.67	0	69.67
Nuckolls	68.03	58.62	0	58.62
Thayer	72.43	65.26	Dec. 5%	62.00
Fillmore	99.51	85.26	0	85.26
Hamilton	101.25	86.68	0	86.68
York	108.12	92.71	0	92.71
Adams	84.48	75.12	Dec. 4%	72.12
Clay	91.25	77.69	0	77.69
Hall	71.69	61.55	0	61.55
Merrick	73.64	59.33	Inc. 4%	61.70
Boone	82.90	70.60	0	70.60
Nance	79.64	58.75	Inc. 10%	64.63
Antelope	60.34	50.09	0	50.09
Boyd	51.54	43.22	0	43.22
Knox	62.63	53.26	0	53.26
Holt	20.59	16.24	0	16.24
Garfield	15.91	12.36	Inc. 7%	13.23
	9.17	7.73	0	7.73

Keya Paha	12.65	9.89	Inc. 5%	10.38
Rock	10.68	10.52	Dec. 14%	9.05
Greeley	46.82	42.29	0	42.29
Howard	53.62	45.71	0	45.71
Sherman	41.46	35.58	0	35.58
Valley	47.65	39.51	0	39.51
Buffalo	55.15	48.02	Dec. 4%	46.11
Dawson	48.57	43.31	Dec. 5%	41.14
Kearney	60.36	50.93	0	50.93
Phelps	59.32	51.48	0	51.48
Franklin	46.53	38.84	0	38.84
Harlan	38.03	32.00	0	32.00
Webster	52.83	47.71	Dec. 6%	44.85
Furnas	34.56	29.72	0	29.72
Gosper	33.82	30.14	Dec. 5%	28.63
Frontier	19.98	17.04	0	17.04
Red Willow	25.50	22.18	Dec. 4%	21.29
Chase	14.40	12.20	0	10.47
Dundy	12.32	10.47	0	10.47
Hayes	14.82	12.87	Dec. 8%	12.87
Hitchcock	21.23	19.80	Dec. 8%	18.22
Custer	24.47	19.51	Inc. 5%	20.49
Keith	16.61	12.84	Inc. 7%	13.74
Lincoln	11.54	9.70	Inc. 4%	10.09
Perkins	21.64	15.48	Inc. 10%	17.03
Arthur	5.13	5.12	Dec. 15%	4.35
Logan	9.82	9.60	Dec. 12%	8.45
McPherson	5.79	4.90	Inc. 15%	5.22
Blaine	5.45	4.90	Dec. 5%	4.66
Cherry	6.26	5.29	0	5.29

Exhibit "U" to Scribner's Testimony.—Continued.

County.	Equalized value, 1920.	Assessors' return, 1921.	Proposed % increase or decrease.	Proposed value per acre, 1921.
Grant	4.34	4.24	Dec. 12%	3.73
Hooker	4.78	3.84	Inc. 4%	4.72
Thomas	5.70	4.54	Inc. 4%	4.74
Garden	11.49	8.63	0	9.81
Sheridan	8.63	8.63	Dec. 15%	7.34
Cheyenne	26.27	25.34	Dec. 12%	22.30
Deuel	30.72	26.16	0	26.16
Kimball	21.11	19.43	Dec. 8%	17.88
Morrill (report not received	.....	.....	..	.....
Banner	11.85	7.30	0	7.30
Sioux	8.71	6.91	Inc. 5%	7.26
Box Butte	10.26	8.78	0	8.78
Daws	12.08	10.45	0	10.45
Scotts Bluff (report not received)	.....	.....	..	.....

Explanation.—Banner County was entitled to a decrease of 20% in 1920, which they didn't take. This year they are taking this decrease in addition to the 15% to which they are entitled which accounts for their large decrease.

449 Mr. Osborne: Of course, gentlemen, I might say that the Board are not advised as to what the purpose of this record is. If it is for the purpose of going up to the courts if the result here is not in keeping with what you think it should be, then I assume that the Board ought to be permitted to present some testimony to combat the testimony submitted wholly on the part of the railroad companies.

Mr. Clark: Now, I will say to the Board this: That to this day there has been no determination of any of the railroads of that question and each railroad will have to decide for itself as to what it will do in the future.

Mr. Osborne: I mention that for the reason that there has been no effort on the part of the Board or myself to combat any of the evidence presented. We have admitted everything in the record we do not confess at all.

Mr. Clark: Yes, and most of it is your own record.

Mr. Osborne: And there is some argument, of course.

450 Mr. Clark: But that is a different question. That will be the deductions to be drawn from these papers. Of course we think we have shown from these records a portrait of inequality that entitled us to relief as far as the real estate is concerned—I concede it does not as to anything else—it shows in that respect we should have the same deduction as other property owners of realty.

(Statement by Mr. C. A. Magaw.)

Mr. Clark: Now, Mr. Osborne, referring to your inquiry a few moments ago: while Mr. Magaw and I represent each of the carriers sparately for the purpose of this hearing, as to the future course the other railroads will pursue I cannot advise you, and if you have anything to introduce, as a matter of prudence I think you should put it in because I cannot tell what the other roads will do. That is all we have to offer.

Mr. Osborne: I guess we might conclude the hearing on the matter. I do not believe we care to offer anything at this time.

451 Final order and judgment of the Board for year 1921 offered in evidence at page 345 hereof, to be attached to this page as follows:

Minute Entries of Order of State Board.

Lincoln, Nebraska, July 25, 1921.

In the matter of the equalization of the valuation of the assessment of the property of the Chicago, Rock Island & Pacific Railroad Company, the St. Joseph & Grand Island Railway Company, the Union Pacific Railroad Company, the Chicago & Northwestern Railway Company, the Chicago, Burlington & Quincy Railroad Company, the Chicago, St. Paul, Minneapolis & Omaha Railway Company and the Missouri Pacific Railway Company, the matter having been given full and due consideration by the Board and considering the fact that land and improvements outside of the

Railroad right of way in 1920 was increased approximately 62% over that of the prior year and it having been assumed by the Board at the time of fixing of the valuations of the railroads in May of 1920 that the general average increase obtained in the state would not exceed 40% and for the further reason that the land constituting the right of way of the Railroad Companies, is, to the mind of the Board a better grade of land than the general
452 average in the state and is improved to the extent that it is graded for the accommodation of the rolling stock of the Companies to which no consideration has heretofore been given, and from the fact that the average reduction over 1920 per acre, as returned by the assessing authorities is approximately 15.51%, that by allowing the railroads to be and remain as fixed by the State Board heretofore in May, 1920, will result in a fair and an equal valuation as compared to farm lands generally in the state.

I move that the complaint of the several companies be denied. Mr. Marsh seconded the motion. The Chairman by a motion directed the secretary to call the roll which was as follows: Mr. Amsberry, Aye, Mr. Marsh, Aye, Mr. Cropsey, Nay and explains his vote as follows:

In making up the valuation of the Railroad property it is generally agreed that there is about 15 or 20% of this value in real estate and on that basis, I think that the whole assessment should be reduced 3% to equalize with other real estate. I believe in reducing the taxes we might be enabled to reduce the freight and passenger rates, which, in my opinion is essential. Mr. Osborne, Aye.

453 **Reporter's Certificate.**

STATE OF NEBRASKA,
Lancaster County, ss:

I, John S. Taggart, official Reporter Fourth Judicial District of Nebraska, do hereby certify that I reported in shorthand the proceedings and testimony before the Nebraska State Board of Equalization and Assessment in the above entitled matter, and that the within and foregoing is a full, true and complete transcript of the evidence and proceedings, including all exhibits that were offered and received at said hearing, as the same appear in my shorthand notes taken at the time and place hereinabove stated. (Sgd.) John S. Taggart, Official Reporter, Fourth Judicial District of Nebraska.

Order Settling Bill of Exceptions.

I hereby certify that the within and foregoing is a true, correct and complete transcript of all of the evidence offered and received upon the hearing of the above entitled matter, and includes the decision of the Board upon the application herein.

And, now, upon the application of the complainants railroad companies, the within bill of exceptions is allowed and settled as such and filed in said matter and ordered to be made a part of the record therein.

Dated this 10th day of August, 1921. (Sgd.) Darius M. Amsberry, Acting Chairman. (Seal.)

454 & 455 **Reporter's Certificate.**

STATE OF NEBRASKA,
Lancaster County, ss:

I, John S. Taggart, Official Reporter Fourth Judicial District of Nebraska, do hereby certify that I reported in shorthand the proceedings and testimony before the Nebraska State Board of Equalization and Assessment in the above entitled matter on July 25th, 1922, and that the within and foregoing is a full, true and complete transcript of the evidence and proceedings, including all exhibits offered and received in evidence at said hearing, and that the copies of said exhibits included herein are true and correct copies of the originals thereof, and that said testimony and proceedings were correctly transcribed herein as the same appear in my shorthand notes taken at the time and place hereinabove stated. John S. Taggart, Official Reporter, Fourth Judicial District of Nebraska.

Order Settling Bill of Exceptions.

I hereby certify that the within and foregoing is a true, correct and complete transcript of all of the evidence offered and received and proceedings had upon the hearing of the above entitled matter, and includes the decision of the Board upon the applications herein.

And now, upon the application of the complainants railroad companies, the within bill of exceptions is allowed and settled as such and filed in said matter and ordered to be made a part of the record in said matter.

Dated this 11th day of August, 1922. D. M. Amsberry, Acting Chairman. (Seal.)

456 **Defendants' Exhibit No. 2.**

Defendants offered in evidence defendants' Exhibit 2, being an affidavit of Ulysses G. Powell, as follows (as to plaintiff, Chicago & North Western Railway Company's property):

"Ulysses G. Powell being first duly sworn deposes and says:

1. That he is an accountant of more than thirty years' experience; that he was for more than twelve years chief accountant for the Nebraska State Railway Commission, and in that capacity had charge of the annual reports filed by the plaintiff company with said commission.

2. That he has investigated the report filed by the plaintiff company with the Nebraska Commission which shows the value of plaintiff's property located in the state of Nebraska as of July 1, 1909.

3. That he has tabulated from the reports filed by the plaintiff with the Nebraska Commission the additions and betterments to plaintiff's property located in Nebraska from July 1st, 1909, to December 31st, 1921.

4. That from his investigation he finds that by using the same methods of calculation as adopted by the plaintiff company in its return to the Commission as of July 1st, 1909, a total value of plaintiff's property in Nebraska as of December 31st, 1921, including working capital is $63,438,309.27."

457 **Defendants' Exhibit No. 6.**

Defendants offered in evidence defendants' Exhibit 6, being an affidavit of Ulysses G. Powell, as follows (as to plaintiff, Chicago, St. Paul, Minneapolis & Omaha Railway Company's property):

"Ulysses G. Powell being first duly sworn deposes and says:

1. That he is an accountant of more than thirty years' experience; that he was for more than twelve years chief accountant for the Nebraska State Railway Commission, and in that capacity had charge of the annual reports filed by the plaintiff company with said commission.

2. That he has investigated the report filed by the plaintiff company with the Nebraska Commission which shows the value of plaintiff's property located in the state of Nebraska as of July 1st, 1909.

3. That he has tabulated from the reports filed by the plaintiff with the Nebraska Commission the additions and betterments to plaintiff's property located in Nebraska from July 1, 1909, to December 31, 1921.

4. That from his investigation he finds that by using the same methods of calculation as adopted by the plaintiff company in its return to the Commission as of July 1st, 1909 a total value of plaintiff's property as of December 1st, 1921, including working capital is $4,890,633.84."

458 **Defendants' Exhibit No. 4.**

Defendants offered in evidence Defendants' Exhibit 4 being page 471 of the printed volume being Fourth Annual Report of the Nebraska State Railway Commission, as follows:

Physical Value for July 1, 1909, of Chicago & Northwestern Railway Company's Property.

Miles of Roadway, 1,1074.63. Miles of Track, 1,263.30.

Subject.	Respondent's valuation, repro. new.
1. Right of Way and Station Grounds	$7,014,369.00
3. Grading	5,873,154.00
5. Bridges, Trestles and Culverts	2,658,121.00
6. Ties	1,992,107.00
7. Rails	3,533,228.00
8. Frogs and Switches	113,684.00
9. Track Fastenings, etc	692,593.00
10. Ballast	704,439.00
11. Track Laying, etc	1,286,016.00
12. Roadway Tools	19,920.00
13. Fencing—Right of Way	315,946.00
14. Crossings and Signs	141,150.00
15. Signals	22,389.00
16. Telegraph and Telephone Lines	6,245.00
17. Station Bldgs., etc	737,342.00
18. General Office Bldgs. and Fixtures	18,479.00
19. Shops, Engine Houses and Turntables	272,679.00
20. Shop Machinery and Tools	28,946.00
21. Water Stations	251,797.00
22. Fuel Stations	150,088.00
23. Grain Elevators	44,416.00
24. Storage Warehouses	5,600.00
30. Miscellaneous Structures	678,529.00
31. Adaptation and Solidification	2,223,212.00
32. Engineering and Superintendence	1,302,057.00
33. Steam Locomotives	1,222,066.00
35. Passenger Cars	701,319.00
36. Freight Cars	4,047,666.00
37. Work and Floating Equipment	32,315.00
38. Rent and Repairs of Equipment	117,623.00
40. Transportation of Material	3,766,976.00
41. Stores and Supplies for Nebraska	527,603.00
42. General Expenditures	6,222,814.00
39. Inspection and Purchase of Equipment	.....
Grand Total	$46,724,888.00

459 **Defendants' Exhibit No. 5.**

Defendants offered in evidence Defendants' Exhibit 5 being page 474 of the printed volume being Fourth Annual Report of the Nebraska State Railway Commission, as follows:

Physical Value for July 1, 1909, of Chicago, St. Paul, Minneapolis & Omaha Railway Company's Property.

Miles of Roadway, 306.10. Miles of Track, 369.93.

Subject.	Respondent's valuation, repro. new.
1. Right of Way and Station Grounds	$746,985.95
2. Real Estate	1,339,321.90
5. Bridges, Trestles and Culverts	1,530,137.11
6. Ties	609,752.23
7. Rails	749,279.79
8. Frogs and Switches	1,136,867.01
9. Track Fastenings, etc	39,085.54
0. Ballast	205,723.84
1. Track Laying and Surfacing	249,125.30
2. Roadway Tools	215,894.25
3. Fencing—Right of Way	5,032.50
Crossings and Signs	91,650.94
Interlocking and other Signals	9,497.63
Station Bldgs. and Fixtures	1,342.00
Shops, Engine Houses and Turntables	191,206.00
Shop Machinery and Tools	47,195.69
Water Stations	9,015.45
Fuel Stations	54,265.00
Steam Power Plants	8,551.43
Misc. Structures	1,392.38
Engineering and Superintendence	63,655.50
Steam Locomotives	328,723.98
Passenger Cars	500,000.00
Freight Cars	154,586.00
Work and Floating Equipment	740,269.00
Rent Repairs of Equipment	41,983.00
Transportation of Material	.....
Stores and Supplies for Nebraska	312,345.41
General Expenditures—Contingencies	136,405.96
	907,053.94
Grand Total	$10,426,344.73

460 In connection with the offer of defendants' Exhibit 4 and defendants' Exhibit 5, the following offer was made:

"Mr. Lamaster: We offer page 471 of the record of the Annual Report of the State Railway Commission for the year ending December 31, 1911, as being a statement by the C. & N. W. of reproduction new cost as of July 1, 1909. Now, Mr. Dressler, do you agree that it may be used without any further reference, for that purpose?

Mr. Dressler: I do not object to the showing in these figures for what they are but I do object to the offer as incompetent and too remote to be any evidence whatever of the value for the year 1922.

Judge Munger: Does that report purport to show anything for depreciation?

Mr. Dressler: No sir.

Judge Munger: Reproduction new cost without depreciation.

Mr. Dressler: Yes sir."

Affidavit of Ulysses G. Powell.

Defendants offered and there was received in evidence affidavit of Ulysses G. Powell, as follows:

"Ulysses G. Powell being first duly sworn, deposes and says, that he is the same Ulysses G. Powell who has submitted other affidavits in these proceedings. He further says as follows:

1. That he is familiar with the unit costs of material and labor used by steam railroads that operated lines of road in the State of Nebraska during the past ten years.

2. That the average cost of material used in the construction of roadway and equipment facilities in the State of Nebraska, for the year 1921 was between 155 and 165 per cent of costs of similar material in 1913.

3. That the plaintiff company paid $30.35 per gross ton for new open hearth 90 lb. per yard steel rails laid by plaintiff on its system of railroads in the State of Nebraska during the year 1911. That the plaintiff company paid $48.00 per gross ton for the same class and weight of rail laid in Nebraska during the year 1921.

4. That the plaintiff company paid for ties used in operation and construction of its railroad in the State of Nebraska during the years 1911 and 1921 as follows:

	1911.	1921.
New oak ties untreated	$.61	$1.47
New pine ties treated	$.77	$1.47

461 The defendants offered in evidence their Exhibit 9, being the testimony given by Mr. Don L. Love, adduced by them during the trial of the 1921 tax suit of the Chicago & Northwestern Railway Company and the Chicago St. Paul, Minneapolis & Omaha

Railway Company versus William H. Osborne et al., in this court. The testimony of Mr. Love is in substance as follows:

Defendants' Exhibit No. 9.

I am one of the directors and treasurer of the Lincoln Joint Stock Land Bank, have occupied that position since 1918 when the bank was organized; was engaged with the Lincoln Trust Company, a financial institution for about ten years prior to that time. The Lincoln Joint Stock Land Bank conducts a farm loan business under the Federal Farm Loan Act, confining its operations to Nebraska and Iowa. It has now between twenty-two and twenty-three millions in loans. It is limited under the law to a loan of fifty per cent of the appraised value of the farm, the loans actually run about forty per cent. The appraisal is made by Federal appraisers appointed by the Board at Washington. After the appraisal is made it goes to the executive committee of the bank. If they approve the report the loan is made. The limit is fifty thousand dollars to one person and not to exceed one hundred dollars an acre on the land. In
462 1917 Land values in Nebraska began to advance rapidly culminating in the fall of 1919 or in the spring of 1920. During that period the increase was from fifty per cent to a hundred per cent. The actual decline in land values began probably in the early spring of 1920 and is still continuing. Between the spring of 1920 and April 1st or May 1st, of 1921, there were practically no sales of lands by which to judge just what the decline was, except forced sales. The reason that the sales stopped was because there was a general decline that began about that time on everything and especially in farm products. By the fall of 1920 farm products had fallen off, corn from nearly two dollars a bushel to twenty cents, and other agricultural products had fallen but not in that proportion. Corn had the greatest fall of all. The income from land is one of the things that is taken into account in making loans. The average crop of 1920, when it was ready for market in the fall of 1920 or winter of 1921 would hardly pay expenses. There was a loss—the 1920 crop was sold at an actual loss of the cost of production. The same condition continued until the spring of 1922.

Upon cross examination: Farms have a value as homes for the owners entirely aside from the revenue produced. In Nebraska hogs constitute a substantial part of the product of the farm and the price of hogs, even during 1920 was such that if a farmer fed his
463 crop to hogs he could realize very much more per bushel from the corn than the market price of corn, but most farms were depleted of hogs. The situation was that the farmers thought they couldn't afford to feed a dollar eighty or two dollars corn to hogs; therefore they didn't raise hogs in 1919 and early in 1920, and at the end of 1920-1921, it left them without much stock on the farm, that was one great trouble.

During 1920 our bank was prevented from making loans owing to an action against farm loan banks in Washington; then the

market was such that we couldn't sell bonds and we didn't actually do any business until about December 1, 1921. Applications for loans were numerous in 1920; the loan part of the real estate business being heavy and the bank could have made loans if it had sold bonds and had had available funds.

Upon re-direct: Interest rates were very high from the spring of 1920 through 1921; interest rates went up on farm loans beginning in 1918 and during that pre-war period was five percent, that was the best farm loan in Nebraska. During the period up to 1919 or early in 1920 interest went as high as seven per cent and commission beside. It reached its height in 1919 and early in 1920 and continued through 1920 until early in 1921. It began to go
464 down again the middle of 1921. Interest rates went up because the farm loan banks could not operate insurance companies and private companies put up their interest rates to the highest point, but it was probably not wholly due to that Money was in great demand and scarce.

Upon recross-examination: The maximum interest charge is fixed for the joint land banks at six per cent without commission.

Upon redirect examination: The loan companies and large insurance companies are guided in making their loans by the values in 1916, which we call the nearest approach we can get to present prices, that is, what land should be worth now.

Defendants offered in evidence their Exhibit 10, being the testimony of Mr. Herman A. Penner, adduced during the trial in this court of the 1921 tax suit of the Chicago & Northwestern Railway and the Chicago, St. Paul, Minneapolis & Omaha Railway against William H. Osborne, et al., who testified as follows:

Defendants' Exhibit No. 10.

I am a resident of Omaha, have lived here seven years and have been connected with the Peters Trust Company as assistant secretary during that period. Am familiar with the methods pursued
465 by that company in making loans; it is chiefly engaged in making farm loans and has about 36 million dollars of loans, over thirty million of which are farm loans, chiefly in Nebraska. Our general method of arriving at the value of land is as follows: we are the correspondents for the Prudential Insurance Company for this territory. A year ago when crop values were low we found it difficulty to arrive at a fair value of farm lands. There was nothing selling. Farms could not be appraised according to income. The Prudential Insurance Company at that time adopted the policy under which the farm lands were appraised at about the value of five years ago; they went back to the old valuation of 1916. That basis of valuation was used because we could not use the high price valuations; we had nothing else to base our values upon as there was no sale and the income was not sufficient; we made an investigation as to income; it was easy to figure out with corn selling at what it did and the farmers not willing even to harvest it; it was certainly not an income producing proposition. It makes a difference whether

corn is fifteen cents a bushel or a dollar and a half a bushel. The income was so small that we couldn't use it as a basis at all. The Prudential Insurance Company will act on applications up to fifty per cent of the appraised value of land exclusive of buildings,
466 but in no case is a loan made to exceed one hundred dollars an acre, and that on the very best of land. We operate as a trust company under the Nebraska law and are not supposed to loan in excess of fifty per cent of the value. Insurance Companies have a general understanding as to loan conditions and loan values. Upon Cross examination: In making loans we have the borrower's statement, we have the statement of the bankers, the statement of two sworn local people, we have our own appraiser, and we have our notes on land valuation for thirty years. We have been in operation for thirty years, so we have those things all to guide us as to our valuations. Fifty per cent is the limit exclusive of improvements. Our appraisers give us the value of the land and the value of the buildings and we go as high as fifty per cent on the land valuation. Where there are no buildings we will not go quite as high, ordinarily.

Defendants offered in evidence their Exhibit 8, being the testimony of Mr. U. G. P-well, offered at the trial in this court of the 1921 Tax Case of the Chicago & Northwestern Railway Company and the Chicago, St. Paul, Minneapolis & Omaha Railway Company against William H. Osborne, et al.

Defendants' Exhibit No. 8.

I am a public accountant, reside in Lincoln, Nebraska; for
467 twelve years chief accountant for the Nebraska State Railway Commission.

I have been connected with a large number of important cases before the Interstate Commerce Commission and before the courts, for instance the Rock Island two cent fare case, the Missouri Pacific rate case, I. & S. Docket No. 555, I. & S. Docket No. 600, which were the Western Passenger and Freight cases, and have been in charge of rate work for a number of state regulatory commissions, such as Ex Parte No. 57, 1920 express case, 1922 express case, and participated in the general preparation of the Minnesota Rate cases, particularly that part of the proof covering the expense statement, in the brief on behalf of the state commissions in the Supreme Court of the United States. I am familiar with the valuation proceedings by the Nebraska State Railway Commission involving the Chicago & North Western Railway company and the Chicago, St. Paul, Minneapolis & Omaha Railway company. The two companies made reports to the Nebraska State Railway Commission in the valuation proceedings, which reports I have examined. Each one of the plaintiffs was required to make report of all its physical property in Nebraska as of July 1, 1909, together with allocation of all that part of its equipment and its material and supplies, properly assignable to Nebraska. Since that date the plaintiffs should have made reports each year to the Nebraska State Railway Commission showing the

net addition and betterments and the amount of equipment and the amount of stores and supplies properly assignable to Nebraska. They have made such reports for each of the years 1909 to 1920, inclusive, except for the years 1910 and 1911. I have examined all of these annual reports. In making my computation I deducted in each instance the amount of equipment and the amount of material, and supplies shown in the 1909 return, this for the reason that they are fluctuating items. I took the Chicago & North Western Railway company's report for 1909 and subtracted the amount of equipment and the amount of material and supplies and added to it the net additions and betterments year by year from 1909 to 1920, inclusive. All of those figures come from the annual report made by that company to the Nebraska State Railway Commission except for the years 1910 and 1911. The figures for those two years I got from the general offices of the Chicago & North Western Railway company in Chicago. I did the same in the case of the
467½ Chicago, St. Paul, Minneapolis & Omaha Railway company except that for the two years 1910 and 1911, I did not make an investigation in their general offices but took an average of the other years for each of those two years. Then to the amount of the property as shown by the 1909 report I added the net amount of additions and betterments for each one of the years 1909 to 1920 inclusive. I further added an amount for equipment based on the number of railway miles in Nebraska as compared with the entire system of the company, that being the method employed by the company in making its 1909 report. To this amount I added five per cent as working capital, materials and supplies, and the necessary funds to carry accounts receivable. I prorated the equipment as of December 31, 1920, in the same manner as the company prorated in its 1909 report, that is, on a roadway mile basis. I arrived at a final figure of $61,714,320 as the reproduction cost new in 1909 as reported by the company plus additions and betterments up to December 1, 1920. The results of my investigation are embodied in defendants' Exhibit No. 1, now offered in connection with this testimony. None of the figures in the tabulation are mine. They are taken from the records of the Chicago and North Western Railway company; except the five per cent for working capital and material and supplies that is my estimate for those accounts and is taken as that is the amount usually used by the Nebraska State Railway Commission in determining rate cases as representing working capital. It is also used by other regulatory bodies. I made a similar investigation with regard to the Chicago, St. Paul, Minneapolis & Omaha Railway company with regard to its 1909 report and for the subsequent years in the same manner I investigated the Chicago & North Western Railway company's reports, and prepared a tabulation in the same manner as in the case of the Chicago & North Western Railway company, making the estimate of five per cent to cover supplies and working capital, with the result that the final figure is $14,480,465.52, which tabulation is embodied in defendants' Exhibit No. 2, now offered in connection with my testimony. (Both Exhibits Nos. 1 and 2 being admitted by the court.)

In the District Court of the United States for the District of Nebraska, Lincoln Division.

Chicago & North Western Railway Company, Complainant,

vs.

W. H. Osborne, Jr., as State Tax Commissioner of the State of Nebraska, et al., Defendants.

Estimated Cost of Complainant's Property in Nebraska December 31, 1920.

Defendants' Exhibit No. 1.

Column.	Line No.	R. R. valuation repro. new July 1, 1909. 1.	Net cost add. & bett. 1909–1920.* 2.	Est. cost pres. prop. Dec. 31, 1920. 3.
Rdwy. & Sta. Grounds	1	$7,014,369.00	$37,317.27	$7,051,686.27
Grading	2	5,873,154.00	207,150.35	6,080,304.35
Bridges, Trestles & Culv	3	2,658,121.00	923,608.98	3,581,729.98
Ties	4	1,992,107.00	40,486.13	2,032,593.13
Rails	5	3,533,228.00	237,133.51	3,770,361.51
Other Track Matl	6	806,277.00	292,653.41	1,098,930.41
Ballast	7	704,439.00	186,082.51	890,521.51
Track Laying, etc	8	1,286,016.00	33,812.12	1,319,828.12
Rdwy.—Bldgs. & Tools	9	19,920.00	22,917.71	42,857.71
Fencing—Right of Way	10	315,946.00	2,386.52	318,332.52
Crossings & Signs	11	141,150.00	57,623.47	198,773.47
Signals	12	22,389.00	20,474.02	42,863.02

*Authority—Annual Reports to Nebraska State Railway Commission.

Defendants' Exhibit No. 1—Continued.

Column.	Line No.	R. R. valuation repro. new July 1, 1909. 1.	Net cost add. & bett. 1909–1920.* 2.	Est. cost pres. prop. Dec. 31, 1920. 3.
Tel. & Tel. Lines	13	6,245.00	94,159.29	100,404.29
Bldgs. & Fixtures	14	755,821.00	289,822.03	1,045,643.03
Shops, Eng. House & Turn.	15	272,679.00	199,423.16	472,102.16
Shop Mch. & Tools	16	28,946.00	56,342.47	85,288.47
Fuel & Water Stations	17	402,067.00	126,339.95	528,406.95
Misc. Structures	18	728,545.00	30,049.61	758,594.61
Cost of Road Purchased	19	.....	72,949.13 Cr.	72,949.13 Cr.
Adapt. & Solid	20	2,223,212.00	.....	2,223,212.00
Assess. for Public Imp.	21	.....	47,684.43	47,684.43
Eng. & Supt	22	1,302,057.00	9,076.55	1,311,133.55
	23	30,086,506.00	2,841,818.40	32,928,324.40
Transport. of Matl	24	3,766,976.00	783,121.00**	4,550,097.00**
Rent & Repairs of Equip	25	117,623.00	.....	117,623.00
General Expenditures	26	6,222,814.00	20,750.32	6,243,564.32
Total	27	40,193,919.00	3,645,689.72	43,839,608.72

Equipment.

Steam Locomotives	28	.....		20.35%	3,039,460.67
Pass. Cars	29	.....		11.68%	1,744,516.00
Freight Cars	30	.....		67.42%	10,069,800.43
Work & Floating Equipment	31	.....		.55%	82,147.58
Total Equipment	32		To System	12.582%	14,935,924.68#
Work. Cap. (Stores & Sup.)	33	.....	.....		58,775,533.40
	34		Est.	5%	2,938,776.60
Total Nebraska Prop.	35	.....			$61,714,310.00

*Authority—Annual Reports to Nebraska State Railway Commission.

**Eliminating items on lines Nos. 1, 2, 8, 19, 20, 21, 22 (est. cost figured on $14,967,424.81 at 30.4%.

#Total equipment based on % of mi. owned Nebraska to total system which is 12.582%. Equipment entire system, letter of C. D. Brandriff March 2, 1922, is $118,051,886.54. Amount to Nebraska is 13.582% of $118,051,886.54 or $14,935,924.68 which is spread among classes of equipment on rates of R. R. Val. 1909

In the District Court of the United States for the District of Nebraska, Lincoln Division.

Chicago, St. Paul, Minneapolis & Omaha Railway Company, Complainant,

vs.

W. H. Osborne, Jr., as State Tax Commissioner of the State of Nebraska, et al., Defendants.

Estimated Cost of Complainant's Property in Nebraska December 31, 1920.

Defendants' Exhibit No. 2.

Column.	Line No.	R. R. valuation repro. new July 1, 1909. 1.	Net add. & bett. 1910–1920.* 2.	Est. cost pres. prop. Dec. 31, 1920. 3.
Rdwy. & Sta. Grounds	1	$746,985.95	$883.92	$747,869.87
Real Estate	2	1,339,321.90	.....	1,339,321.90
Grading	3	1,530,137.11	113,537.17	1,643,674.28
Bridges, Trestles & Culverts	4	609,752.23	221,728.12	831,480.35
Ties	5	749,279.79	23,544.59	772,824.38
Rails	6	1,136,867.01	63,268.84	1,200,135.85
Other Track Matl.	7	244,809.38	68,417.84	313,227.22
Ballast	8	249,125.30	37,151.73	286,277.03
Track Laying & Surfacing	9	215,894.25	20,438.27	236,332.52
Roadway Tools	10	5,032.50	6,905.87	11,938.37
Fencing—Right of Way	11	91,650.94	380.71	92,031.65
Crossings & Signs	12	9,497.63	122,913.38	132,411.01
Tel. & Tel. Lines	13	.....	1,566.37	1,566.37

Interlocking and Other Sig.	14	1,342.00	1,148.51	2,490.51
Sta. Bldgs. & Fixtures	15	191,206.00	159,228.59	350,434.59
Shops, Eng. Houses & Turn	16	47,195.69	70,450.41	117,646.10
Shop Mach. & Tools	17	9,015.45	746.81	9,762.26
Water Stations	18	54,265.00	23,631.56	77,896.56
Fuel Stations	19	8,551.43	22,859.01	31,410.44
Steam Power Plants	20	1,392.38	5,821.87	7,214.25
Misc. Structures	21	63,655.50	1,250.73	64,906.23
Assess. for Pub. Imp	22	.....	19,434.30	19,434.30
Eng. & Supt	23	328,723.98	13,020.95	341,744.93
Total	24	7,633,701.42	998,329.55	8,632,030.97
Transp. of Matl	25	312,345.41	74,553.01**	386,898.42**
General Expend	26	907,053.94	13,246.76	920,300.70
	27	8,853,100.77	1,086,129.32	9,939,230.09
Equipment.				
Steam Locomotives	28	.....	34.80%	1,340,387.93
Passenger Cars	29	.....	10.76%	414,441.78
Freight Cars	30	.....	51.52%	1,984,390.41
Work & Floating Equip	31	.....	2.92%	112,469.34
Total Equipment	32		To System 18.255%	3,851,689.46#

*Authority—Annual reports to Nebraska State Railway Commission. A. & B. for 1910 and 1911 estimated as average for years 1912-1920.

**Eliminating items on lines 1, 2, 3, 9, 22 and 23 (est. cost figured on $4,303,653.17 at 8.99%).

#Total equipment on system given in letter of Charles Jensch April 1, 1922, for Dec. 31, 1920, to be $21,099,367.08. Equipment to Nebraska divided on miles owned Nebraska to System.

Defendants' Exhibit No. 2—Continued.

Column.	Line No.	R. R. valuation repro. new July 1, 1909. 1.	Net add. & bett. 1910–1920.* 2.	Est. cost pres. prop. Dec. 31, 1920. 3.
	33	.....	.....	13,790,919.55
Work Capital (Stores & Sup.)	34		Est. 5%	689,545.97
	35	.....	.....	$14,480,465.52

*Authority—Annual reports to Nebraska State Railway Commission. A. & B. for 1910 and 1911 estimated as average for years 1912-1920.

470 I have kept my self generally informed as to the costs of material and supplies for the construction and maintenance of railroads and have recently made an investigation in regard thereto in connection with the Omaha & Council Bluffs Street Railway company in Omaha. That company does not use steam locomo-
471 tives, but uses large quantities of rails, such as steam railroads use. That investigation did not include passenger equipment used by steam railways. The rails used by that company compare favorably with those used by the Chicago & North Western Railway company in this state. Some of them are 62 pound and some of them are 60 pound rails. The ties are about the same as used in railroad construction. During the last five years rails have gone from $28 per ton to about $48 per ton.

I made an investigation of the property investment account of the Chicago & North Western Railway Company as to whether or not it correctly reflected the actual investments made by the company in connection with I. and S. Docket 555, the Western Freight case. My investigation covered a period of sixteen years in regard to this item, that is, from December 31, 1898, to December 31, 1914. The investigation was made at the headquarters of the Chicago & North Western Railway Company in Chicago. I had a number of assistants at the time and superintended the work. As a result of my investigation I found that the property investment account did not correctly show the actual investment in property during that period. The method pursued by the company is outlined on pages 16 and 26 of the annual report of the board of directors to the stockholders as of June 30, 1906. In that year there was spent for construction $9,444,024.67. Of that amount there was charged to road and equipment account $3,311,024.67. Six million, one hundred thirty-three thousand dollars was charged to surplus account. I am familiar with the Interstate Commerce Commission's method of railway accounting and able to determine how much money was spent in additions and betterments for each year that was charged to property investment account and how much was not so charged. The study I made divided the period of sixteen years into two parts, 1899 to 1906 inclusive, and 1907 to 1914, both inclusive, giving an eight year period in each instance. For the first period the total amount of money charged to the surplus account or income account by the company was $37,681,940.66. In the last eight year period no such items were charged. All additions and betterments were charged from January 1, 1907, to plant and roadway account. During the first eight years $37,618,940.66 was expended that was not included in the property investment account.

This sum came out of the income account for the most
472 part. A small part of it came from the sinking fund account. No part of this sum appears in the $451,000,000 that was reported by the company to the Interstate Commerce Commission in connection with Ex Parte 74 except there was some recasting of the equipment account by the company in recent years and some of it may have been included in that.

The following table shows the figures paid by the Chicago & North Western Railway Company for rails on the dates stated:

June 30, 1916	$30.8
December 31, 1916	30.7
December 31, 1917	30.4
December 31, 1918	31.8
December 31, 1919	39.8
December 31, 1920	40.1
December 31, 1921	47.6

It paid for ties, as shown by the following table:

June 30, 1915	66.98 cents
June 30, 1916	68.12 cents
December 31, 1916	68.12 cents
December 31, 1917	67.42 cents
December 31, 1918	82.29 cents
December 31, 1919	86.56 cents
December 31, 1920	84.41 cents
December 31, 1920	$1.33

Since 1916 lumber has advanced from 200 to 212 per cent and other building materials have advanced over 1916 prices from 60 to 200 per cent. Prices of track fastenings and all kinds of structural steel follow pretty closely to the rail market. The lines of the Chicago & North Western Railway Company as they are today in Nebraska were practically all completed by 1888. They were principally built from 1884 to 1888 except some lines that were purchased by the company. The lines of the Chicago, St. Paul, Minneapolis & Omaha Railway Company were constructed about the same time. The figures I have presented here with regard to the valuations of these two plaintiffs have not taken into account at all the increase of value of the lands, right-of-way and station grounds. I have simply given the cost figures in each instance as reported by the respective companies. Nor do the figures presented by me take into account any increased unit cost of rails or ties or any of the other elements that go to make up the railroad property except as such higher costs are represented in the additions and betterments made from 1909 down to date, which would be a very small portion of the total.

473 Cross-examination:

I do not wish to be understood as saying that I think $61,714,57[illegible] is the value. I just simply say that is the result of the tabulations. It is difficult to say what the valuation is. My method of arriving at the valuation is to take the report of the company to the physical valuation department of the State Railway Commission. Shortly after the organization of the Commission blanks for reports by the carriers were drafted. The physical valuation department took the figures as returned by the company as to each component part of the

company located in this state and computed the reproduction cost new of the same property, stating the condition per cent of the property and the valuation of the property based on its condition. Roadway and station grounds account was stated by the company to be $7,014,369 in the report it made in 1909 to the Nebraska State Railway Commission. The engineering department allowed as against that item $4,039,688.98. The department also found another figure not including the cost of acquisition severance damages of $2,566,862. The $7,014,369, reported by the company, included cost of acquisition and severance damages. The net result was that the engineering department allowed a grand total valuation including equipment of $38,195,225.31, while the figures given on Exhibit 1 are for everything except equipment is $40,193,919. I have allocated equipment on a straight road mileage basis. Dividing cars among the several classes, passenger, freight and work-train equipment would reduce the allocation of equipment in Nebraska to $7,593,883.09. I cannot say how much of the $37,000,000, invested in roadway and equipment, represented replacements and how much was for additions and betterments. No depreciation account as to equipment was kept prior to 1907. In order to find out what proportion of the $37,000,000 actually represented additions and betterments one would have to have some account of the retirements and the depreciation during that period as to the equipment and whatever that amounted to would have to be deducted from the $37,000,000. The $37,000,000 extended over a period of eight years. The Chicago & North Western Railway Company has always been understood to be a low property investment account road. The Burlington the same way. The amount they charged to roadway and equipment was really small. In Ex Parte 74 the Interstate Commerce Commission had to consider the western district of the United States, in which there was a number of roads which had charged into their property account sums very much in excess of the actual expenditures for road and equipment, and it was a leveling matter that the Interstate Commerce Commission had to deal with in that decision. The Chicago & North Western Railway Company has very little hundred pound rail in the state of Nebraska, if any. It has some 100 pound rail elsewhere. I am acquainted with the physical condition of the Chicago & North Western Railway Company across the state of Iowa and across the State of Illinois. I think there is 90 pound rail, possibly a hundred pound some of it—90 to 100 pound. That is also true on the four-track system between Chicago and Milwaukee. I think that is substantially all 100 pound rail. There is heavy rail between Chicago and Elroy Wisconsin and in that territory it is all rock ballast, with oak ties. There are block signals on the line in Illinois and between Chicago and Milwaukee. I do not consider that mile for mile, a mile of the Chicago & North Western Railway in Nebraska is worth as much as a mile in Iowa, but I have been describing the main lines. In Illinois there would be a greater difference as there are not so many branch lines in Illinois as in Iowa or Nebraska. I am not acquainted with the physical property of the company in Michigan I know there is a very ma-

terial investment in the iron ore docks at Escanaba, Michigan. I do not recall the amount. I know there is a very large terminal elevator at Milwaukee and a very large terminal elevator at Calumet Lake in Chicago, which is generally understood to be the largest terminal grain elevator in the world. I know of the large repair shops at New Butler, Wisconsin. There are no shops, elevators, or tracks or double track and block signals in the state of Nebraska that would compare to those elements just described in the state of Wisconsin. There are a good many branch lines in Wisconsin that I do not think are very much better than the lines in Nebraska, but my judgment is that the lines in Nebraska are not worth as much mile for mile as the lines in Wisconsin. I am acquainted with the passenger terminal of the company in Chicago. It has twenty acres occupied by the main passenger terminal and up to 1914 the company had expended about $29,000,000 in building a terminal. The company also owns property at its old depot site and there are
475 freight houses on each side of State street; that there is a considerable tract of land there and that the lower end of it is within four blocks of Marshall-Fields store. The company also has large material yards in Chicago. I should say a mile of roadway in Wisconsin, Illinois or Iowa is worth more than a mile of roadway in Nebraska.

Redirect:

The Chicago & North Western Railway Company has a low property investment account as compared with other roads in the western district. One hundred pound and seventy-five pound rail are approximately the same price per ton. The prices vary only with specially rolled rails. The major portion of the rail on the Chicago & North Western railway in Nebraska is 60 pound rail. There is some 80 pound. The labor of laying the rail would be approximately the same. A second track adds from 60 to 70 per cent of the cost of the first track, not including the way and structures, not including right-of-way. The right-of-way does not have to be widened any on account of the laying of the second track except where the company would need an additional amount of earth or things of that kind. I think the Chicago & North Western road is fully as well maintained now as it was in 1909. Eighty per cent of the cost of the property is considered very good condition for almost any class of public utilities property. This is assuming that the costs remain unchanged. I do not claim that the unit cost at the book prices during the war are proper elements of value as a basis on which to determine value of public utilities or railroad property. I think the proper basis is unit prices as relating to the property put in place by different years; that the cost of putting the property in place is a proper basis upon which to calculate rates; that the company ought to have a return on the money it invested in 1920, but that 1920 prices of material and labor should not be used to calculate the property put in place in 1910. If you can get the figures to work with it is better to take the prices during the period the property was constructed. Failing in

that, take five or six years average prices with a fair representation of the level of prices prior to 1914 would be a fair index fig-
476 ure. That is the basis the Interstate Commerce Commission is now using. It also takes into consideration in its valuation the element of depreciation, that being provided in the Physical Valuation Act.

Q. I understand you to say, Mr. Powell, that predicated upon the formula which you have given here as defendants' Exhibit 1, the valuation for the Northwestern Railway Property in the State of Nebraska is $61,714,310.00—am I right about that?

The Court: He doesn't say anything about value. He presents here an estimated cost study, a reproduction study or whatever it is. He does not say anything about value.

* * * * * * *

The Witness: I do not think that a mile of track in the State of Nebraska is worth as much as a mile of track in the states of Wisconsin, Illinois and Iowa * * * The figures I have used in Exhibit 1 do not consider the subject of depreciation.

Defendants offered in evidence defendants' Exhibit 11, being a certified copy of the record of the Nebraska State Railway Commission with respect to the physical valuation of the Chicago, St. Paul, Minneapolis & Omaha Railway Company, showing a finding of present value as of July 1, 1909, of $8,728,936.31.

Defendants offered in evidence defendants' Exhibit 12, being a certified copy of the record of the Nebraska State Railway Commission with respect to the physical valuation of the Chicago & Northwestern Railway Company showing that there was no final finding of the value made and that nothing further of record appears with reference to such valuation.

Defendants offered in evidence defendants' Exhibit 13 being a compilation of 58 affidavits from twenty counties in the state, being affidavits of residents of such counties and showing an average market value of the real estate as compared with the assessed value for 1922, as 74.28 per cent, and that during the years 1920, 1921 and 1922, real estate values decreased in various percentages from 18 to 50 per cent.

Defendants offered in evidence defendants Exhibit 14, consisting of nineteen affidavits of land owners in various counties in Nebraska showing the ratio of assessed value to actual value of 66.85 per cent.

Defendants offered in evidence defendants' Exhibit 16, being a compilation of affidavits of county clerks and registers of deeds in forty Nebraska counties showing land transfers of rural real
477 estate by warranty deeds, sheriff's deeds and referee's deeds during the period from July 1, 1921 to July 1, 1922, which showed that for that year the ratio of assessed value to selling price was 60.95 per cent and taking the year 1922, from January 1 to July 1, gives a percentage of 65.40 per cent of the assessed value to selling value, and from July, 1921 to January 1, 1922, the ratio

of assessed value to selling price was 65.40 per cent. The total acres involved was 429,098 and the total consideration thereof, $24,233,555, and selling price per acre $56.47. The assessed value was $14,869,361.00, and the assessed value per acre was $34.42, showing a ratio of 60.95 per cent of the assessed value to selling price.

Defendants offered in evidence Exhibit 17, being the affidavit of A. M. Clark, as follows:

Defendants' Exhibit No. 17.

A. M. Clark, being first duly sworn, on oath deposes and says that he is the duly elected, qualified and acting assessor of Adams County, Nebraska, that he has read the affidavit of Mr. Charles C. Parmalee, filed in this cause, and that the statement in Mr. Parmalee's affidavit that the affiant said that in an address by W. H. Osborne to the county assessors in the spring of 1922, Mr. Osborne stated that where a farm was worth $125 actual value per acre, that they should assess it at $90-$95 per acre, which would be about 70 or 75% of the actual market value, is untrue, and that affiant never heard W. H. Osborne make that statement or that statement in substance, that he never stated to Mr. Parmalee that he had heard W. H. Osborne make such statement, or that in substance, and that Mr. Parmalee's statement is untrue.

Affiant further states that the only instructions that he has had from W. H. Osborne as State Tax Commissioner were to assess property at its fair market value in accordance with the law.

Affiant further says as showing the correctness of his assessments in Adams County, Nebraka, he cites the following instances of sales

In November, 1922, a section of land about three miles from Kenesaw was sold at private sale for about 50¢ per acre less than its 1922 assessed value. On December 14th, 1922, an 80 acre tract about six miles from Hastings was sold at partition sale for about $6,000, and was assessed for 1922 at $6,500, that on the same day a 160 acre tract about six miles from Hastings was sold at about $12,000, and the 1922 assessed value of the same land was approximately $13,000.

Affiant further says that several instances have been called to his attention during the past year, where city property in Adams County has been sold for less than its 1922 assessed valuation.

478 Defendants offered in evidence defendants' Exhibit 3[illegible] being that part of page 70 of the statistics of railways in the United States relating to taxes and assessments for the year ending December 31, 1920, being the 24th annual report of the Interstate Commerce Commission, as follows:

Defendants' Exhibit No. 25.

Page 70.

Statistics of Railways in the United States.

Statement No. 39.

Taxes and Assessments for the Year Ended Dec. 31, 1920—Class I Carriers and Their Non-operating Subsidiaries.

State.	Total. Amount.	Total. Per mile of line.	Class I carriers.	Subsidiary to class I carriers.
Total United States	*$282,750,533	$1,262	$281,258,069	$1,492,464
Alabama	2,548,239	560	2,548,239	.....
Arizona	1,572,112	776	1,572,112	.....
Arkansas	3,912,137	948	3,912,137	.....
California	7,186,655	1,071	7,179,287	7,368
Colorado	3,344,291	729	3,344,091	200
Connecticut	1,974,929	1,977	1,974,929	.....
Delaware	165,372	493	164,331	1,041
Florida	2,166,797	542	2,166,797	.....
Georgia	2,481,022	455	2,481,022	.....
Idaho	3,844,290	1,500	3,844,290	.....

*Excludes $1,064,545 Canadian Taxes, $447 Cuban taxes, and credit of $1,596 not localized by states. These amounts are included in the income accounts.

Taxes and Assessments.—Continued.

State.	Total. Amount.	Total. Per mile of line.	Class I carriers.	Subsidiary to class I carriers.
Illinois	16,421,746	1,421	16,323,371	98,375
Indiana	9,422,348	1,328	9,420,707	1,641
Iowa	7,855,052	808	7,855,052	.....
Kansas	6,188,470	688	6,179,658	8,812
Kentucky	2,183,792	624	2,179,504	4,288
Louisiana	3,788,386	971	3,788,386	.....
Maine	1,724,961	831	1,724,961	.....
Maryland	2,004,186	1,591	1,991,783	12,403
Massachusetts	3,339,127	1,616	3,337,648	1,479
Michigan	7,578,625	1,083	7,578,625	.....
Minnesota	9,753,406	1,151	9,753,406	.....
Mississippi	3,611,616	942	3,611,616	.....
Missouri	3,358,579	457	3,358,579	.....
Montana	4,283,757	871	4,283,757	.....

(Second Column Same Exhibit.)

Nebraska	$4,159,281	$677	$4,159,281	.....
Nevada	1,543,485	942	1,543,485	.....
New Hampshire	1,005,430	827	1,005,430	.....
New Jersey	11,188,775	5,292	10,710,925	477,850
New Mexico	2,467,111	915	2,467,111	.....
New York	17,860,538	2,271	17,603,616	256,922

North Carolina	2,128,612	552	2,124,627	3,985
North Dakota	4,997,344	969	4,997,344	.....
Ohio	16,841,495	2,048	16,840,721	774
Oklahoma	5,462,847	864	5,461,508	1,339
480				
Oregon	2,721,507	1,060	2,721,457	50
Pennsylvania	9,342,090	945	9,281,217	60,873
Rhode Island	585,359	2,996	585,359	.....
South Carolina	1,950,592	623	1,950,592	.....
South Dakota	3,718,490	900	3,718,490	.....
Tennessee	2,583,797	702	2,582,441	1,356
Texas	5,097,866	364	5,097,087	779
Utah	1,855,786	907	1,855,786	.....
Vermont	450,543	608	450,543	.....
Virginia	4,695,253	1,129	4,694,972	281
Washington	8,794,709	1,698	8,794,709	.....
West Virginia	3,879,092	1,195	3,869,566	9,526
Wisconsin	6,875,961	995	6,874,066	1,895
Wyoming	1,212,958	686	1,212,958	.....
District of Columbia	79,120	2,291	79,120	.....
United States Government	50,542,597	226	50,001,370	541,227

End of statement No. 39.

481 Defendants offered in evidence defendants' Exhibit 26, being pages 102 to 109, inclusive, of the report of the department of agriculture of the state of Nebraska for the year 1921, as follows:

482 **Defendants' Exhibit No. 26.**

Def'ts' Ex. 27. C. W. P.

Agricultural Statistics of Nebraska for the Year 1921.

Published by State of Nebraska Department of Agriculture, Bureau of Markets and Marketing, Lincoln.

Bulletin No. 114.

Summary Corn.

Year.	Acreage.	Av. yield.	Total No. bu.	Value.
1918	6,954,061	17.7	123,298,649	$160,288,243
1919	7,039,811	25.8	182,250,823	227,813,528
1920	7,560,355	33.8	255,544,816	127,772,408
1921	7,418,700	28.1	208,732,212	45,921,086

Summary Winter Wheat.

Year.	Acreage.	Av. yield.	Total No. bu.	Value.
1918	3,015,844	11.1	33,520,047	$67,040,094.00
1919	3,716,159	14.8	55,280,969	110,561,938.00
1920	3,334,547	17.4	58,106,940	92,971,104.00
1921	3,761,683	14.4	54,340,841	46,189,714.85

483 *Summary Spring Wheat.*

Year.	Acreage.	Av. yield.	Total No. bu.	Value.
1918	811,815	11.9	9,721,793	$19,443,586.00
1919	667,572	8.5	5,699,458	11,113,943.10
1920	258,448	9.5	2,453,476	3,680,214.00
1921	205,059	11.3	2,317,881	1,854,324.80

Summary All Wheat.

Year.	Acreage.	Av. yield.	Total No. bu.	Value.
1918	3,827,659		43,241,840	$86,483,680
1919	4,383,731		61,234,602	121,675,881
1920	3,592,995		60,560,416	96,651,318
1921	3,966,742		56,658,722	48,044,039

Summary.

Horses.		Mules.		Cattle.		Hogs.		Sheep and goats.	
Number.	Value.	Number.	Value.	Number.	Value.	Number.	Value.	Number.	Value.
910,079	$81,907,110	102,192	$10,219,200	2,904,875	$213,943,510	2,038,236	$61,147,080	278,821	$3,345,852
942,561	58,297,503	94,298	8,241,472	2,673,993	124,806,234	1,806,856	42,715,495	218,958	1,223,902
879,763	56,698,709	93,438	10,700,342	2,598,057	113,778,114	1,707,092	28,204,860	236,402	1,959,740
841,095	47,105,844	99,603	7,059,527	2,411,818	79,875,741	1,712,396	18,658,993	183,778	839,318

Summary Oats.

Year.	Acreage.	Av. yield.	Total No. bu.	Value.
1918	2,530,877	22.2	56,215,487	$33,729,200.00
1919	2,133,475	32.8	70,133,995	44,184,416.85
1920	2,400,062	34.6	83,037,162	33,214,864.80
1921	2,585,084	27.1	70,273,858	12,649,294.44

Barley.

Year.	Acreage.	Av. yield.	Total No. bu.	Value.
1918	342,659	16.5	5,677,074	$4,541,659.00
1919	217,174	25.7	5,584,944	5,864,191.20
1920	255,503	29.05	7,424,615	4,454,769.00
1921	198,793	24.7	4,904,543	1,471,362.90

484

Rye.

Year.	Acreage.	Av. yield.	Total No. bu.	Value.
1918	387,596	12.9	5,037,670	$7,052,738.00
1919	408,160	12.6	5,156,629	6,187,954.80
1920	264,370	14.1	3,751,104	4,876,435.20
1921	275,466	12.7	3,495,632	2,097,379.20

Summary Potatoes.

Year.	Acreage.	Av. yield.	Total No. bu.	Value.
1918	121,432	86.4	10,497,998	$8,398,398.00
1919	103,977	55.1	5,737,312	8,605,968.00
1920	85,439	98.7	8,435,554	6,748,443.20
1921	102,074	79.92	8,158,458	7,432,612.20

Alfalfa.

Year.	Acreage.	Av. yield.	Total No. tons.	Value.
1918	1,164,941	2.1	2,527,834.5	$63,195,862.00
1919	1,180,324	2.7	3,214,999.1	64,299,982.00
1920	1,232,947	2.86	3,527,689.5	35,276,895.00
1921	1,195,562	2.36	2,828,757.0	19,801,299.00

Wild Hay.

Year.	Acreage.	Av. yield.	Total No. tons.	Value.
1918	2,587,678	.88	2,285,010.2	$43,415,193.00
1919	2,771,234	1.02	2,842,304.8	45,476,866.88
1920	2,315,359	1.02	2,319,777.4	18,558,219.20
1921	2,256,315	.84	1,897,490.0	11,384,940.00

(Here follows Summary, marked side folio page 485.)

485½ Defendants offered in evidence defendants' Exhibits 28, 29, and 30, being copies of reports by the United States Department of Commerce, as follows:

(Here follow Defendants' Exhibits Nos. 28, 29, and 30, marked side folio pages 486, 487, and 488.)

489 Defendants offered in evidence defendants' Exhibit 32, being the affidavit of W. H. Osborne, state tax commissioner, as follows:

490 **Defendants' Exhibit No. 32.**

W. H. Osborne, being first duly sworn, on oath deposes and says that he is the duly appointed and qualified Tax Commissioner of the State of Nebraska, that he has occupied such office since about April 28, 1921, that prior to that time he was secretary of the State Board of Equalization of the State of Nebraska, for more than two years, that he is generally familiar with all the methods and procedure of taxation in said state, and that he is generally acquainted with property values in the state of Nebraska and has been so acquainted for more than three years last past.

Affiant, as such officer, has charge and custody of the files and records of the State Board of Equalization which contain the full information of the assessments and taxation of all railroads
491 operating in the State of Nebraska, that the assessment of plaintiff's property used in conducting transportation for the years 1911 to 1922 inclusive, is shown in Exhibit "A," which is attached hereto and made a part hereof. The assessment of all railroads within the state is shown for the same years in Exhibit "B," which is hereto attached and made a part hereof. There has been a gradual increase in the assessed value of railroad property throughout said period due to increase in amount the larger increases in the year 1920 were due to increases in value of all items of property used in the construction of railroads and in the increase in the *the* right of way; the same is true of all property values as shown by Exhibit "C" which is attached hereto and made a part hereof.

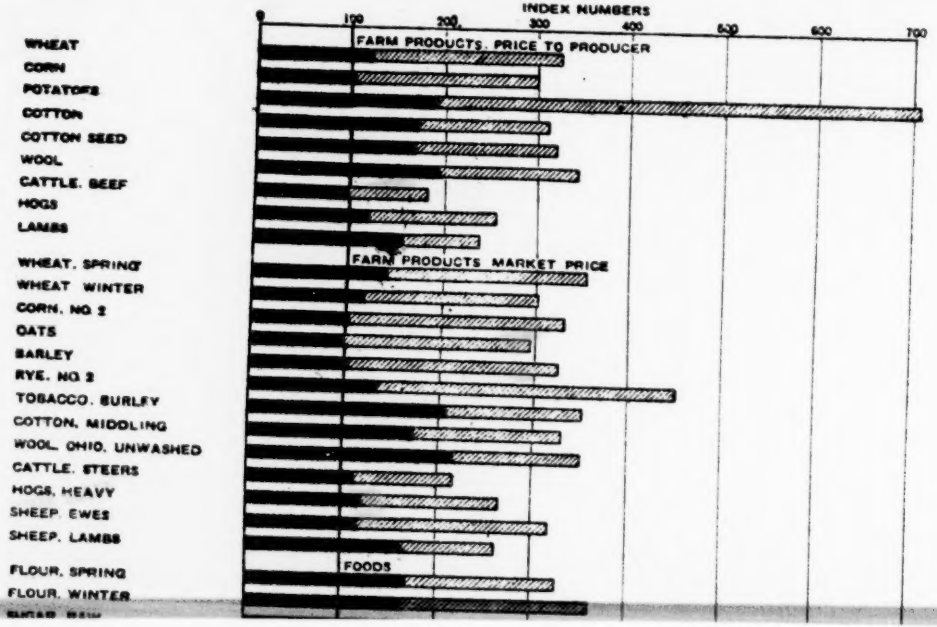
Affiant further alleges that there has been no discrimination against the property of the plaintiff, or against the property of railroads in general.

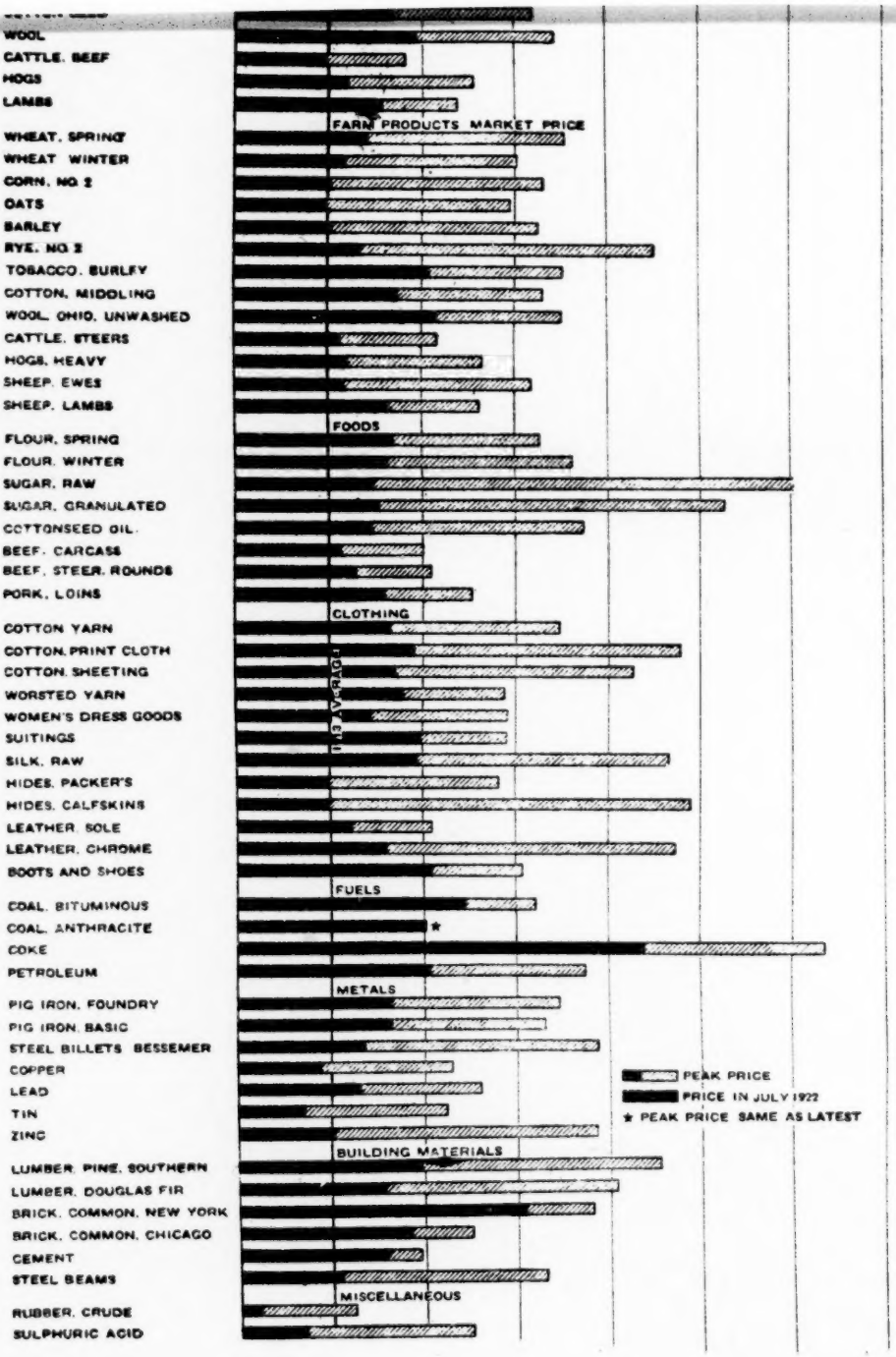
Affiant further says, that at the time of the assessment of the plaintiff's property by the State Board of Equalization, that the plaintiff was at once notified and that this action of the Board was taken on the 15th day of June, 1922, but the assessment value as determined by the Board was by this affiant certified to the County Clerks of the State on or about the 30th day of June, 1922 that if the plaintiff is now allowed to enjoin the collection of the
492 taxes levied against its property the accounts of the state and of every municipality and every county traversed by

Defendants Exhibit No. 28. 486

COMPARISON OF PRESENT WHOLESALE PRICES WITH PEAK AND PRE-WAR.

(Relative prices 1913=100.)





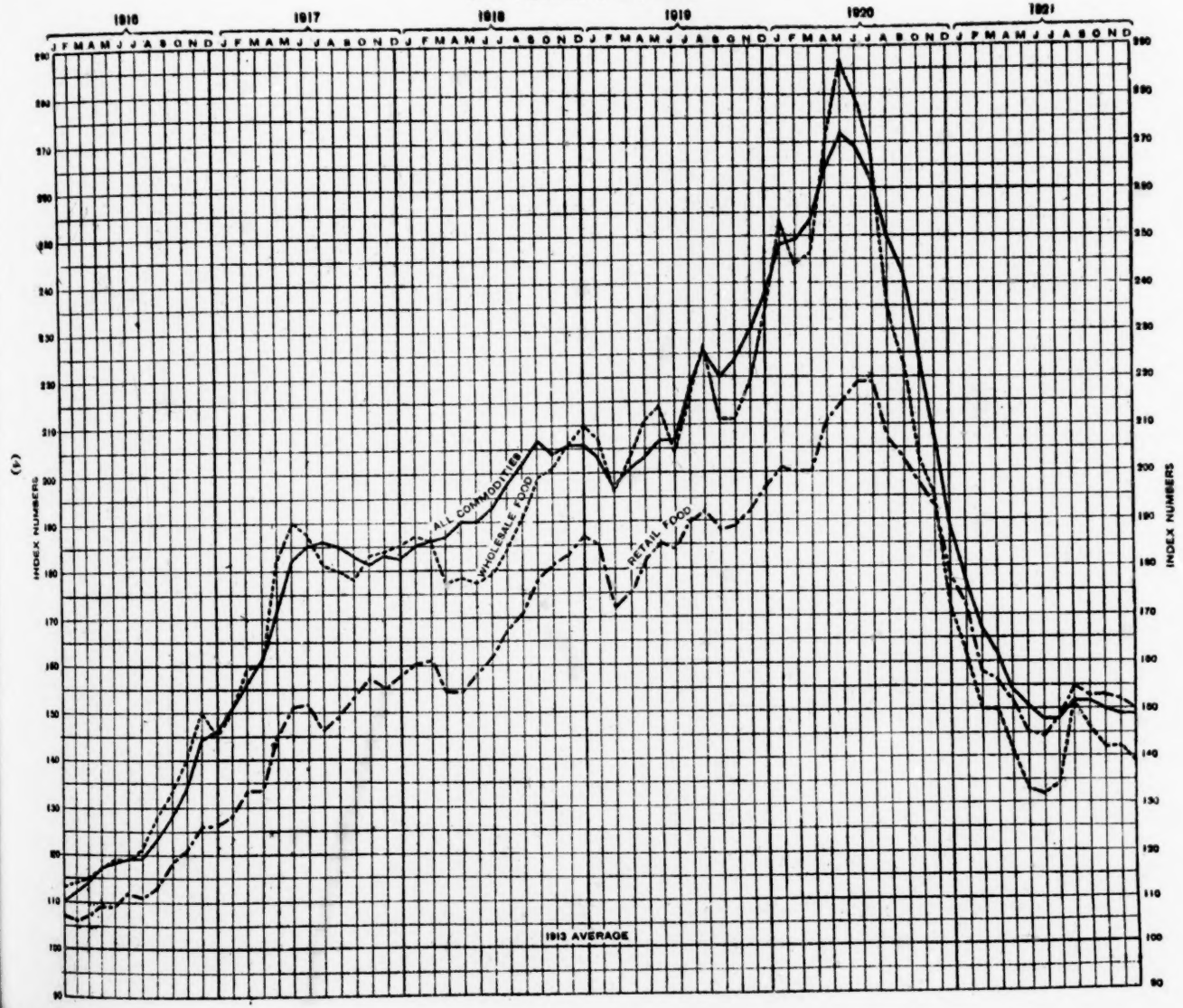
Authority: Survey of Current Business, U.S. Dept.of Commerce, No. 13, Page 4, September 1922.

Defendants Exhibit No. 29. 487

COMPARISON OF WHOLESALE AND RETAIL FOOD PRICE INDEX NUMBERS.

WITH INDEX OF ALL COMMODITIES AT WHOLESALE.

(U. S. Department of Labor Index.)

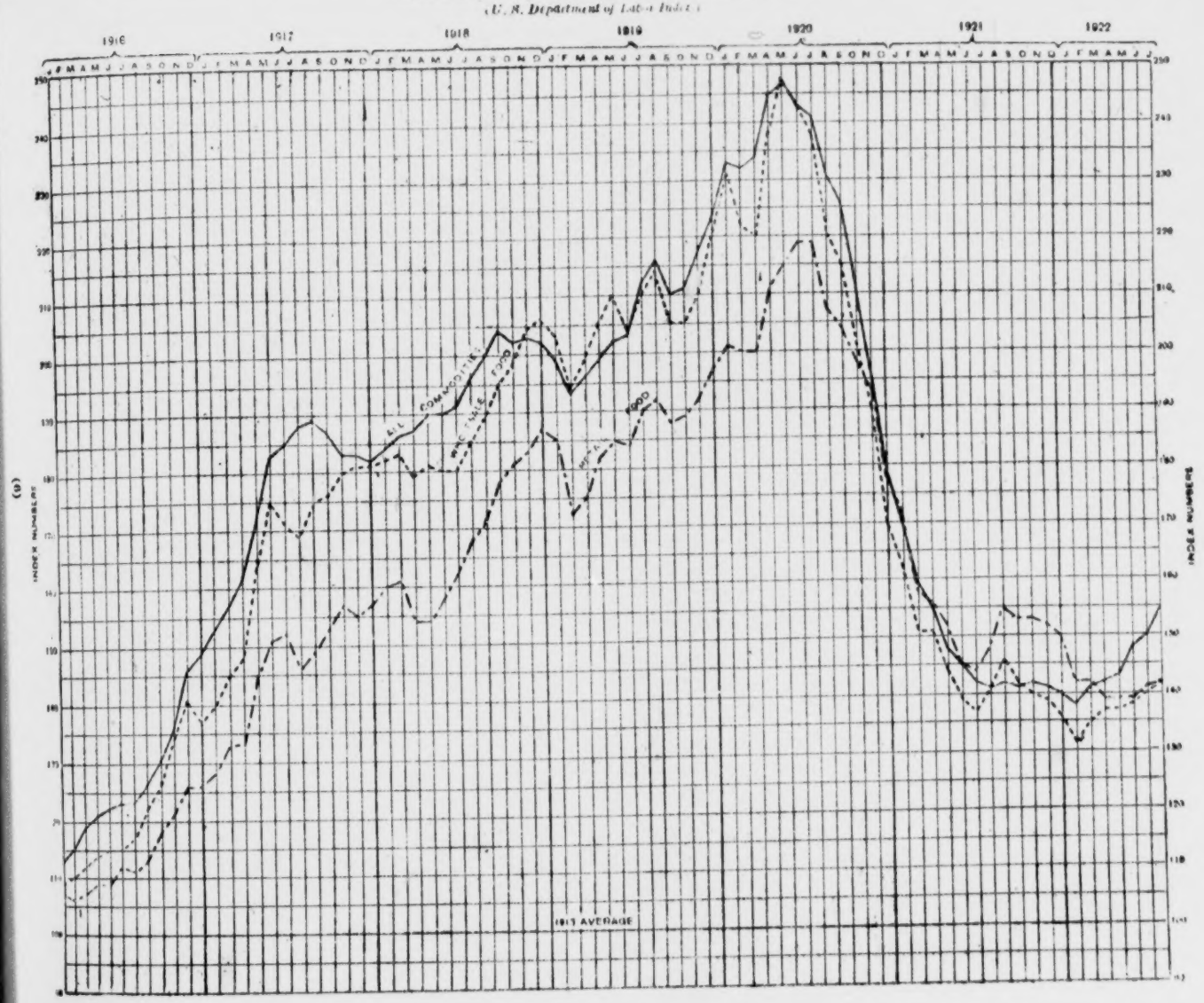


Authority; Survey of Current Business, U.S. Dept of Commerce, No. 6 January 1,1922, Page 4.

COMPARISON OF WHOLESALE AND RETAIL FOOD PRICE INDEX NUMBERS.

WITH INDEX OF ALL COMMODITIES AT WHOLESALE.

(U. S. Department of Labor Index.)



Authority: Survey of Current Business, U.S. Dept. of Commerce, No. 13, Page 6, September 1922

plaintiff's road will be thrown into confusion and the utmost difficulty will be suffered and that in many school districts there will be no funds with which to operate the schools and many of them will have to suspend at least for a considerable portion of the school year and other departments of local, county and state government will also suffer great loss and damage.

Affiant further says that he has given considerable study to the values of real estate and improvements and that it is his very best judgment that the peak of prices prevailed about the fall of 1919 and that from that time down to the assessment period of the first of April, 1922, that it is his judgment that farm lands and improvements in this state depreciated in value approximately 33¼ per cent. This affiant denies that at any time has there been any conspiracy on the part of the State Board of Equalization or the individual members thereof, to place a value upon the plaintiff's property or the property of the state in general at any other figure than the directions given to the board by the statute of this state,—namely,—at its actual cash value.

Affiant further denies that there has ever been any understanding between this affiant and the individual members of the State Board of Equalization with the assessing authorities of this state other than that contained in the uniform written instructions sent out to the assessing authorities by this affiant wherein it is therein quoted:

493

"The only instructions that I am permitted to give you in valuing this class of property is that directed to you by the statutes, namely at its actual value, and as defined in the Revenue Law, Actual Value means its actual value in the market in the ordinary course of trade."

W. H. Osborne.

Subscribed in my presence and sworn to before me this 19th day of December, 1922. R. C. Hoyt, Clerk, By John Nicholson, Deputy.

494 **Exhibit A to Osborne's Affidavit.**

Chicago, Burlington & Quincy Railroad.

EXHIBIT A,

Being Memoranda of Assessed Values of the Chicago, Burlington & Quincy Railroad in the State of Nebraska as Shown by the Records in the Office of the Tax Commissioner for the Years 1911 to 1922, *Inclusive.*

1911	$119,441,865.00	
1912	119,441,865.00	
1913	119,441,865.00	
1914	119,441,865.00	
1915	119,441,865.00	
1916	121,934,740.00	(Pencil notation right margin).
1917	121,932,625.00	
1918	121,978,640.00	
1919	122,015,515.00	9%.
1920	131,765,605.00	
1921	131,639,875.00	decrease.
1922	137,589,782.00	12% over 1913

Incre-se since 1911 is 13%.

495 **Exhibit B to Osborne's Affidavit,**

Being Memoranda of Assessed Values of Railroads in the State of Nebraska as Shown by the Records in the Office of the Tax Commissioner for the Years 1911 *to* 1922, *Inclusive, the Same Being the One-fifth of Actual Values, Save and Except the Year* 1921 *Which is Actual Value.*

1911	$54,806,914.00	
1912	55,050,286.00	
1913	55,829,328.00	
1914	55,945,074.00	
1915	55,945,067.00	
1916	55,833,234.00	
1917	56,855,453.00	
1918	56,827,782.00	
1919	56,831,076.00	
1920	60,851,333.00	8 per cent inc.
1921	307,695,100.00	actual value.
1922	315,629,880.00	" "

496 **Exhibit "C" to Osborne's Affidavit,**

Being Memoranda of the Assessed or One-fifth Total Value of All Property as Shown by the Grand Assessment-roll of the State of Nebraska from 1911 *to* 1921, *Inclusive, Save and Except for the Year* 1921, *Which is the Full and Actual Value, or Five Times That of Other Years.*

Grand Total-.

1911	$415,670,075	
1912	463,371,889	
1913	470,690,414	
1914	471,940,195	
1915	481,931,238	
1916	500,827,274	
1917	528,891,424	
1918	467,947,914	
1919	568,921,570	(Pencil notation in right hand margin).
1920	762,284,909	34% Increase.
1921	3,305,477,292	13% Decrease.
1922	3,191,705,290	3% Decrease.

497 "Mr. Dressler: I object to the testimony of Mr. Osborne for the reason that he did not have authority to speak for the entire membership of the board, and it was the action of the board that was complained against.

Mr. Lamaster: The only reason this affidavit was made in regard to this was because there were some statements made in the record that had not been disputed to the effect that he had made some representations to the taxing authorities over the state as to the way they should assess the railways.

Mr. Root: The Burlington objects to this for the reason that the proceedings of the commission in connection with the proof of the value of the property before the board should be controlling, rather than Mr. Osborne's affidavit as to the intention of members of the board. We object to it as incompetent.

Judge Lewis: I don't think it is necessary to have a ruling on this."

Defendants' Exhibit No. 33.

Defendants offered in evidence defendants' Exhibit 33, being an affidavit of W. H. Osborne, state tax commissioner, as follows:

"W. H. Osborne, being first duly sworn, on oath deposes and says that in connection with the study of the affidavit of A. W. Scribner, filed in this case, affiant secured from Mr. Scribner the original cards showing the conveyances for Nance County and Merrick County, total figures for which are given in Mr. Scribner's affidavit.

There were twenty-five transfers in Nance County as shown by

the cards, 16 of which transfers were in 1921 and 9 in 1922. Th total consideration of the 16 conveyances in 1921 was $414,806, an the total assessed value for 1921 on the same tracts was $183,97 giving a percentage of assessed value to the actual value of 44.5% The total consideration for the 9 conveyances in 1922 was $164,69 and the total assessed value for 1922 was, on the same tracts of lan $85,249, making a ratio of assessed value to actual value of 51.1%.

Affiant says that there were thirty-four transfers in Merrick Coun as shown by the cards, 29 of which transfers were in 1921 and 5 which were in 1922. The total consideration of the 29 conveyanc in 1921 was $519,105, and the total assessed value for 1921 on th same tracts was $230,825, giving a percentage of assessed value the actual value of 44.5%. On the five conveyances in 1922 th total consideration was $52,200, while the total assessed value of th same tracts was $32,750, or a percentage of 62.7%.

Affiant further says that he selected these two counties for consi eration for the reason that Mr. Scribner stated that the relation assessed value to sale value in the fifty-three counties, records which were compiled by him, was 46.5%. His compilation show Merrick County to have a ratio of 46% and Nance County to hav a ratio of 47% or an average of 46.5% or the same ratio as all th counties under his showing. Analysis by years shows the fallac of counting 1921 and 1922 together, prices of land having continu to decline."

498 **Defendants' Exhibit No. 40.**

Defendants offered in evidence defendants' Exhibit 40, bein pages 237, 238 and 239 of Volume 58 of the reports of the Inte state Commerce Commission in Docket Ex Parte 74, as follows:

(Interstate Commerce Commission Report, Vol. 58, Page 237.

The Revenue Needs of Carriers in Western Group.

The western carriers ack that their rates be fixed on a basis th will pernit them to earn a net railway operating income of $5 833,024, which represents a return of 6 per cent on the book es of $8,963,883,753. The extent to which the rates of transportati now in effect fall short of yielding the return sought by these ca riers is indicated by the following comparison:

Net railway operating incomes as sought by the carriers		$537,883,0
Standard return		401,215,8
Actual net railway operating income year ended October 31, 1919	$293,212,870	
Less corporate income charges net debit	28,027,616	
		265,185,2
Adjusted net railway operating income year ended October 31, 1919		226,831,6
Finally adjusted net railway operating income year ended October 31, 1919		184,939,7

The figure $226,831,658 represents the actual income, as adjusted in conformity with the questionnaire. The figure $184,939,759 reflects adjustments subsequent to the questionnaire.

It will be observed that on the basis of the predictions of the carriers, the net railway operating income for this district will
499 be approximately $350,000,000 lower than the annual sum to which they claim to be entitled. They estimated that a general increase of approximately 24 per cent in freight revenue was required to return the amount claimed.

During the six years ended 1917 the railway operating income of the carriers averaged $386,000,000 annually; during the four years ended 1915 it averaged $347,000,000 annually; during the years 1916 and 1917 it averaged $464,000,000 annually; in 1918 it dropped to $330,320,330; and in 1919 it declined further to $302,857,219. During the six years ended 1917 the operating ratio ranged from 62.69 to 67.68; in 1918 it rose to 78.14, in 1919, to 80.96, and for the first four months of 1920 to 86.06.

The reports of the class I carriers of this district to us for the first four months of 1920 show a net railway operating income of $56,104,721. Deducting the railway mail pay applicable to prior years, stated by the carriers to have been taken into account in these months, in amount $27,790,388, leaves $28,314,333 as the actual result of operations. Adding to this figure $1,209,969 to cover net railway operating income of carriers other than class I, produces $29,524,302.

During the period 1914 to 1919 the net railway operating income
500 of the first four months in each year averaged 23.29 per cent of the aggregate for the year. Equating the actual results of the first four months of 1920 on this basis produces an estimated net railway operating income of $126,768,149, the net railway operating income of an assumed period of twelve months, on the basis of operating costs which prevailed during the first four months of 1920. Subtracting from this figure $3,789,728, which is the estimate of the carriers for increased allowances to private car owners, and $21,254,298, their estimate of increased fuel costs for the year, reduces it to $101,724,123.

The amount of freight and other transportation revenue, excluding passenger, mail and express reported to us by class I carriers for the first four months of 1920, aggregated $498,001,006. To this amount $16,462,794 has been added to cover revenues of carriers other than class I carriers, resulting in a gross estimated revenue of $514,463,800. During the years 1915 to 1919 inclusive, freight and other transportation revenue, excludng passenger, mail and express, for the first four months of each year, averaged 28.52 per cent of the aggregate for the year. Equating the actual revenues of the first four months of 1920 upon this basis produces $1,803,870,266, as the estimated revenues of an assumed period of twelve months based on the operations of the first four months of 1920.

501 The number of ton-miles of revenue freight for Class I carriers in the western group during the past eight years is indicated below:

Year.	Revenue ton-mile
1912	82,888,199,10
1913	96,986,976,2
1914	92,284,883,7
1915	90,945,571,8
1916 (June 30)	112,156,323,3
1916 (Dec. 31)	123,250,722,1
1917	138,044,743,3
1918	142,335,128,4
1918	130,606,713,8

The carriers estimate that the wage award made by the Labor Board under date of July 20, 1920, will add approximately $240,840,000 annually to the operating expenses of the carriers in the western group. This is equivalent to 11.2 per cent of the total railway operating revenue of the western carriers, as finally adjusted by them for the constructive year.

Plaintiff's Rebuttal Testimony.

Plaintiff offers in evidence

Being page 633 of the Seventh Annual report of the Nebraska State Railway Commission, which is as follows:

Physical Valuation of Steam Railroads.

July 1, 1913.

Chicago & Northwestern Railway Company's property.

Miles of Roadway, 1,071.28. Miles of Track, 1,266.48.

Department's Valuation.

	Reproduction cost new.	Present value.	Formula No. 2, present value.
1. Right-of-way and Station Grounds:			
(*a*) Mkt. val. with acquirement	$2,572,244	$2,572,244	.....
(*b*) Including Acq. and severence	4,620,727	4,620,727	.....
2. Real Estate	44,916	44,916	.....
3. Grading	6,314,595	6,314,595	.....
5. Bridges, Trestles and culverts	3,118,017	2,225,195	.....
6. Ties	3,381,529	2,039,623	.....
7. Rails	4,161,176	2,812,670	.....
8. Frogs and Switches	128,878	67,053	.....
9. Track Fastenings and other mat'l	870,291	580,157	.....
10. Ballast	1,441,389	1,087,923	.....
11. Track Laying and Surfacing	1,122,686	1,122,686	739,941
12. Roadway Tools	29,223	17,833	.....
13. Fencing-right-of-way	353,000	203,837	.....
14. Crossings & Signs	210,711	140,870	.....
15. Interlocking & other Sig. Apprts	44,160	36,418	.....
16. Telegraph & Telephone lines	181,967	113,253	.....
17. Station Bldgs. and Fixtures	1,186,188	858,817	.....

Chicago & Northwestern Railway Co.'s Property.—Continued.

		Reproduction cost new.	Present value.	Formula No. 2, present value.
503	18. General Office bldgs. and fixtures	17,359	12,073	.....
	19. Shops, Engine houses and turntables	445,390	344,256	.....
	20. Shop Machinery & Tools	40,968	27,513	.....
	21. Water Stations	337,595	229,755	.....
	22. Fuel Stations	238,768	170,052	.....
	24. Storage Warehouses	4,027	3,887	.....
	30. Miscellaneous structures	497,668	317,699	.....
	31. Adaptation and solidification	1,143,798	1,143,798	828,103
	33. Steam Locomotives	1,673,469	1,104,490	.....
	35. Passenger Cars	816,455	489,873	.....
	36. Freight cars	3,351,357	2,278,923	.....
	37. Work and Miscellaneous Equipment	274,372	245,927	.....
	38. Rent and Repairs of Equipment	74,884	74,884	56,934
	39. Inspection and Purchase of Equipment	61,157	61,157	41,192
	40. Transportation Men and material miscellaneous	313,720	313,720	238,521
	41. Stores and supplies for Neb	527,600	527,600	.....
	42. General Expenditures—Contingencies:			
	(*a*) Mkt. val. land only	4,182,546	4,182,546	3,269,153
	(*b*) Inc. Acq. and severance right of way	4,430,413	4,430,413	3,517,424
	(*a*) Grand Totals, Mkt. val. land only	$40,129,942	$32,734,081	$31,185,093
504	(*b*) Inc. Acw. and Sev. Right of Way	$42,426,292	$35,030,431	$33,481,847
	(*a*) Per mile of roadway	37,460	30,566	29,110
	(*b*) Per mile of roadway	39,510	32,700	31,254
	(*a*) Per track Mile	31,686	25,847	24,623
	(*b*) Per track Mile	33,499	27,660	26,437

Plaintiff Offered in evidence page 639 of the Seventh Annual Report of the Nebraska State Railway Commission which was as follows:

Physical Valuation of Steam Railroads.

July 1, 1913.

Chicago, St. Paul, Minneapolis & Omaha Railway Company's Property.

Miles of Roadway, 306,105. Miles of Track, 370.15.

Department's Valuation.

		Reproduction cost new.	Present value.	Formula No. 2, present value.
1.	Right of Way and Real estate:			
	(*a*) Mkt. Value with acquirement	$1,256,893	$1,256,893	.....
	(*b*) Including Acquirement and sev.	2,144,444	2,144,444	.....
3.	Grading	1,565,662	1,565,662	.....
5.	Bridges, Trestles and culverts	780,422	780,422	.....
6.	Ties	965,229	550,181	.....
7.	Rails	1,249,734	899,808	.....
8.	Frogs and Switches	46,014	23,927	.....
9.	Track Fastenings & other materials	225,725	153,493	.....
10.	Ballast	259,114	220,247	.....
11.	Track laying and surfacing	317,625	317,625	213,635
505 12.	Roadway Tools	10,624	6,374	.....
13.	Fencing Right of Way	124,385	97,020	.....
14.	Crossings & Signs	33,825	19,280	.....
15.	Interlocking & other Sig. Apprts	3,582	2,687	.....
16.	Telegraph & Telephone lines	32,057	15,387	.....
17.	Station Bldgs. and Fixtures	243,900	165,852	.....
19.	Shops, Engine Houses and Turntables	118,973	107,076	.....
20.	Shop Machinery & Tools	7,475	4,485	.....

Physical Valuation of Steam Railroads.—Continued.

	Reproduction cost new.	Present value.	Formula No. 2, present value.
21. Water Stations	61,352	44,787	.....
22. Fuel Stations	20,475	13,514	.....
30. Miscellaneous structures	62,241	43,569	.....
31. Adaptation and solidification	298,162	298,162	.....
32. Engineering and Superintendence	257,267	257,267	220,730
33. Steam Locomotives	511,268	301,648	.....
35. Passenger Cars	197,675	124,535	.....
36. Freight cars	720,803	454,106	.....
37. Work and Miscellaneous Equipment	76,322	39,767	.....
38. Rent and Repairs of Equipment	31,088	31,088	23,729
39. Inspection and Purchase of Equipment	15,061	15,061	9,021
40. Transportation of Men and material miscellaneaus	128,200	128,200	97,855
41. Stores and supplies	144,681	144,681	.....
42. General Expenditures—Contingencies:			
(*a*) Mkt. Value Land only	1,089,874	1,089,874	859,935
(*b*) Inc. Acq. and Sev. Right of Way	1,192,830	1,192,830	963,103
(*a*) Grand Totals, Mkt. Value Land only	$10,855,708	8,922,943	8,508,913
(*b*) Inc. Acq. and Sev. Right of Way	11,846,215	9,913,450	9,499,632
(*a*) Per Mile of Roadway	35,463	29,149	27,797
(*b*) Per Mile of Roadway	38,699	32,385	31,033
(*a*) Per Track Mile	29,328	24,106	22,988
(*b*) Per Track Mile	32,004	26,782	26,664

506 In the argument of counsel the following colloquy occurred:

"Judge Lewis: Do I understand you to state that the M. & O. is taxed disproportionately.

Mr. Lamaster: The M. & O. is taxed disproportionately. I figured in the other case that it was probably taxed at—that is, there was a difference of about fifteen per cent more as to the M. & O. as compared to the Northwestern. That is, assuming that the Northwestern was taxed at 75 per cent of its value, the M. & O. was taxed at about 90 per cent. Of course, that was only an estimate but it was somewhere in that neighborhood.

Judge Munger: You would say that if the Northwestern was taxed at what it should be that the M. & O. was overtaxed 15 per cent?

Mr. Lamaster: Well, it was in that neighborhood. The State Board took that into consideration this year and reduced the M. & O. 9.53 per cent as against 1921, so that the difference is not so much now, but still even yet as compared with the Northwestern the M. & O. is still paying a slightly larger proportion of taxes, I should say. The Northwestern figures, of course, show, as we contend, that their value is at least 75 per cent."

The following also occurred during the argument:

"Judge Lewis: Well, now, you might give us briefly your notions on the facts, Mr. Lamaster. Now what you claim about the facts in the railroad case is that farm lands were assessed at 61 to 75 per cent?

Mr. Lamaster: We think if due consideration were given to all of the facts and I can take up the bill of exceptions, that contains a large list of transfers, that transfers as recorded even now are filled with transactions and affected by transactions of years ago, it would bring up the assessment to 75 per cent.

507 The foregoing contains copies of all of the Exhibits and all of the evidence material to any of the issues involved herein. Wymert Dressler, Attorney for Plaintiff. O. S. Spillman, Atty. Gen. of Nebraska; Hugh La Master, Asst. Atty.Gen., Attorneys for Defendants. Feb. 3, 1923.

Order Settling Statement of Evidence.

The foregoing statement of the evidence in the case of Chicago & Northwestern Railway Company, plaintiff, vs. W. H. Osborne, Jr., Tax Commissioner of the State of Nebraska, et al., defendants, is hereby approved. J. W. Woodrough, District Judge. Robt. E. Lewis, Circuit Judge. Dated at Omaha, Nebr., this day of Feb. 8th, 1923.

Endorsed: Filed Feb. 6, 1923. R. C. Hoyt, Clerk.

508 **Clerk's Certificate.**

UNITED STATES OF AMERICA,
District of Nebraska, ss:

I, R. C. Hoyt, Clerk of the District Court of the United States within and for the District of Nebraska, hereby certify that pursuant to the order of the Court and in compliance with the Præcipe, a copy of which is found on page 53 hereof, the foregoing record has been made, and that the same is a true and faithful transcript of the pleadings and proceedings on file and of record in said Court, in the case of Chicago & North Western Railway Company, vs. W. H. Osborne, Jr. et al., No. 492 Equity. That a copy of the Citation duly certified has been lodged and remains in my office as such clerk.

Witness my hand and the seal of said Court at Omaha, in said District this 14th day of February, A. D. 1923. R. C. Hoyt, Clerk. [Seal of the United States District Court, District of Nebraska, Omaha Division.]

Endorsed on cover: File No. 29,413. Nebraska D. C. U. S. Term No. 863. Chicago and Northwestern Railway Company, appellant, vs. W. H. Osborne, Jr., as State Tax Commissioner of the State of Nebraska et al. Filed February 20th, 1923. File No. 29,413.